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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 47 (DC)

5 MAHMOUD THIAM,

6 Defendant.

Trial

7 -----x

8 New York, N.Y.

9 May 2, 2017

9:00 a.m.

10 Before:

11 HON. DENISE COTE,

12 District Judge,  
13 and a Jury

14 APPEARANCES

15 JOON H. KIM

Acting United States Attorney for the  
Southern District of New York

16 BY: ELISHA J. KOBRE

17 CHRISTOPHER J. DiMASE

Assistant United States Attorney

18 -and-

19 U.S. DEPARTMENT OF JUSTICE

20 BY: LORINDA I. LARYEA

21 LAW OFFICE OF AARON GOLDSMITH, PC

Attorneys for Defendant

22 BY: AARON M. GOLDSMITH, ESQ.

MICHAEL DELAKAS, ESQ.

23 ALSO PRESENT: PATRICK KILLEEN, Special Agent, FBI

24 ALEXANDER BEER, Paralegal Specialist, USAO

KATHERINE BOSLEY, Paralegal Specialist, DOJ

25 JENNIE CARMONA, Defense Paralegal



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(Trial resumed; jury not present)

THE COURT: Good morning, everyone.

ALL COUNSEL: Good morning.

THE COURT: Let's mark the draft jury charge and  
verdict form as court exhibits.

THE DEPUTY CLERK: Court Exhibit 2.

THE COURT: And the verdict form?

THE DEPUTY CLERK: Court Exhibit 3.

THE COURT: Does the government have any requests or  
objections with respect to the jury charge?

MR. KOBRE: Your Honor, I think we have two small  
requests. I haven't had a chance to discuss them with defense  
counsel yet. If we might have another few minutes just to do  
that. Or I can just raise them with the Court right now.

THE COURT: Well, let me ask Mr. Goldsmith, do you  
have any requests or objections?

MR. GOLDSMITH: I have two very small requests. I'm  
sorry. Three very small requests.

THE COURT: Okay. So everyone will chat and then  
you'll tell Ms. Rojas when you're ready. Thank you.

MR. GOLDSMITH: Thank you.

THE DEPUTY CLERK: All rise.

(Recess)

(In open court; jury not present)

THE COURT: So, counsel, we only have about six



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1 minutes, so you might want to break. We need to be ready to  
2 proceed at 9:30 if we have a jury, so we'll spend a few minutes  
3 here addressing these issues and then we'll take a brief recess  
4 and resume.

5 Okay.

6 MR. KOBRE: Judge, yes, thank you. So the government  
7 has two issues, and then we're going to discuss a few that  
8 defense counsel was going to raise.

9 So the first one, from the government's perspective,  
10 is on page 14, and the government asks that the Court include  
11 the words "or only" after the word "final," so --

12 THE COURT: Where are you? What paragraph?

13 MR. KOBRE: I'm sorry, Judge. Paragraph 3, the last  
14 sentence. "It is also irrelevant whether defendant was the  
15 final," and then the government would ask that the words "or  
16 only" be inserted.

17 THE COURT: Fine.

18 MR. GOLDSMITH: We have no objection, your Honor.

19 THE COURT: Thank you.

20 MR. KOBRE: And the next one is on page 18. It does  
21 concern a matter of dispute between the parties, so --

22 THE COURT: Then it should have been addressed at 9.  
23 Anyway, keep going.

24 MR. KOBRE: Yes, Judge.

25 The first element on page 18, that the defendant



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1 conducted or attempted to conduct a financial transaction in  
2 November 2010 through a bank account in New York, the  
3 government doesn't believe that that is a necessary part of the  
4 element, that the financial transaction be conducted through a  
5 bank account in New York, and asks that that last phrase be  
6 stricken.

7 THE COURT: Count Two?

8 MR. KOBRE: Yes, Judge.

9 THE COURT: And Count Two in the "To Wit" section  
10 describes a transfer of \$375,000 from the Hong Kong account  
11 through Malaysia, through Mozambique, to New York, to conceal  
12 or disguise ownership or control of the Dutchess County estate  
13 and the tortious proceeds used to purchase the Dutchess County  
14 estate. So I agree it's not a requirement of the statute, but  
15 it was the focus of the indictment charge.

16 MR. KOBRE: Your Honor, I think with respect to the  
17 first part of the "To Wit" clause, it refers to a transaction  
18 from the Hong Kong account to an account in Malaysia, and that  
19 transaction -- there are two transactions sort of described in  
20 the "To Wit" clause, but the government's position is that the  
21 first transaction, which is not itself through a bank account  
22 in New York, would be sufficient -- namely, the transfer from  
23 Hong Kong to Malaysia in furtherance of the concealment.

24 THE COURT: So if it's an entirely foreign  
25 transaction, how does it affect interstate or foreign commerce?



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1 MR. KOBRE: Your Honor, it would be a parallel  
2 transaction. In other words, the defendant is transferring  
3 money from Hong Kong, and that the proof at trial thus far has  
4 shown that the defendant was transferring that money in  
5 exchange for, and by agreement with another, a related and  
6 parallel transaction from the bank account in Mozambique to the  
7 lawyer, to Mr. McGregor, who is the buyer's attorney for the  
8 house, so it affects that. There is a transaction that's part  
9 of this. It's a two-stage transaction, in essence, involving a  
10 bank account in Dutchess County and involving a property in  
11 Dutchess County.

12 THE COURT: So you agree that there has to be a  
13 financial transaction through a bank account in New York.

14 MR. KOBRE: But not that the defendant himself  
15 conducted it.

16 THE COURT: That's true. That's true.

17 MR. KOBRE: And I would just add, your Honor, if I  
18 might --

19 THE COURT: Hold on.

20 MR. GOLDSMITH: Your Honor, if I may.

21 THE COURT: Hold on one second.

22 Yes. Mr. Goldsmith.

23 MR. GOLDSMITH: My concern is about the government's  
24 request on page 18, where, similar to what the Court expressed,  
25 which is: (1) Count Two in the indictment is directed at the



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1 Dutchess County transaction; and (2) that without the element,  
2 without the description of the transaction coming into New York  
3 that the government lacks jurisdiction on it, and it is my  
4 concern that eliminating the characterization line of "in New  
5 York" makes the charge too broad and that it could potentially  
6 allow for the jury to be solely considering only the  
7 international aspect of any transactions in November of 2011 --  
8 or 2010.

9 THE COURT: Okay. It's 9:30. Let me consult with  
10 Ms. Rojas.

11 Okay. So I think I have a way to resolve this, but  
12 we're going to take a brief recess, unless you tell me that you  
13 don't need a recess for an hour and a half to two hours.

14 MR. KOBRE: No. The government does not require a  
15 recess.

16 THE COURT: Mr. Goldsmith.

17 MR. GOLDSMITH: No.

18 THE COURT: Okay. Great.

19 So with respect to Mr. Goldsmith's concern, I think  
20 the charge on the fifth element reduces that risk, but let's  
21 talk about the first element. And how about if I amend it to  
22 say, "The defendant conducted or attempted to conduct a  
23 financial transaction in November 2010 related to the Dutchess  
24 County residence"?

25 MR. KOBRE: I think that would be fine, your Honor.



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1 MR. GOLDSMITH: Yes, your Honor, that's fine.

2 THE COURT: Next.

3 MR. KOBRE: That was all for the government, your  
4 Honor.

5 THE COURT: Mr. Goldsmith.

6 MR. GOLDSMITH: The first minor issue I had was  
7 page 10, second element of Count One.

8 THE COURT: Yes.

9 MR. GOLDSMITH: And the government I believe consents  
10 with me to add language that mirrors the language used in the  
11 Count Two charge where, following the end of the paragraph  
12 under the second element, the Court would say something to the  
13 effect of, "as I will instruct you on shortly."

14 THE COURT: Okay. I'm sorry. I'm not following you.  
15 I'm on page 10, second element?

16 MR. GOLDSMITH: "At least 10,000 of the property that  
17 was the subject of that monetary transaction was criminally  
18 derived property from specified unlawful activity," "as I will  
19 instruct you on shortly," to better clarify the specified  
20 unlawful activity.

21 That the transaction of \$10,000 in and of itself is  
22 not unlawful activity.

23 THE COURT: So as revised, it would read, that is, on  
24 page 10, second element, "that at least \$10,000 of the property  
25 that was the subject of the monetary transaction was criminally



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1 derived property from the specified unlawful activity, on which  
2 I will instruct you shortly."

3 MR. GOLDSMITH: Yes.

4 THE COURT: Thank you. Next.

5 MR. GOLDSMITH: Next is page 16. The last sentence of  
6 the charge on Count One, which currently reads, "constitutes a  
7 criminal offense under a nation's laws." I would request --  
8 and I believe the government consents to changing "a nation's"  
9 to "Guinean."

10 THE COURT: Thank you. Let me just read it.

11 So the last line on page 16 would read, "constitutes a  
12 criminal offense under the laws of Guinea."

13 MR. GOLDSMITH: Yes.

14 THE COURT: Is there a consent?

15 MR. KOBRE: Yes, your Honor.

16 THE COURT: Great. Next?

17 MR. GOLDSMITH: Finally, your Honor, on page 29 --

18 THE COURT: Yes.

19 MR. GOLDSMITH: -- under the first paragraph, first  
20 sentence, under Consciousness of Guilt From False Exculpatory  
21 Statements, the charge includes, under the second line,  
22 "statements to law enforcement authorities and bank employees  
23 in which defendant claimed that his conduct was consistent with  
24 innocence." I would request that the terms "and bank  
25 employees" be deleted.



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1 THE COURT: Why?

2 MR. GOLDSMITH: Because there's not been evidence that  
3 the defendant denied any bribery or illegality in the country  
4 of Guinea within his interviews with the bank employees.

5 THE COURT: Oh, I don't know about that. I don't know  
6 about that. No. I think actually the record is that one could  
7 find from this record that he deliberately lied to the bank  
8 employees to disguise the fact that he was engaged in illegal  
9 activity in Guinea while receiving bribe money while the  
10 minister of mines in that country.

11 MR. GOLDSMITH: I think that the record is perhaps  
12 showing that he made misstatements about him being the minister  
13 of mines, but I don't think that it relates back to the  
14 impropriety related to his being the minister of mines.

15 THE COURT: Okay. Well, that's an argument for the  
16 jury and summation, and you're free to make that.

17 Good. Anything else, Mr. Goldsmith?

18 MR. GOLDSMITH: Nothing, your Honor.

19 THE COURT: Okay. Good. And any objections or  
20 requests with respect to the verdict form? From the  
21 government?

22 MR. KOBRE: No, your Honor.

23 THE COURT: Mr. Goldsmith?

24 MR. GOLDSMITH: No.

25 THE COURT: Okay. Good. So let me just make sure



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1 that I didn't have any issues to raise with you.

2 As you'll note, on page 32, I had bolded -- I bolded  
3 several passages, really. I bolded material on 25, 26, and 32  
4 because I'm not sure I need any of that material in this  
5 charge.

6 On 25, I'm not sure we have impeachment yet with  
7 inconsistent prior statements of a witness. I mean, there was  
8 some brief reference, but I don't think it would really rise to  
9 this level yet, but we're not done with the cross-examination  
10 of the defendant. We haven't begun the cross-examination of  
11 the defendant. So anyway, if I don't feel that there's  
12 anything in the record that would support this, I'm just going  
13 to cut it out, and that's why I bolded it.

14 With respect to 32, investigative techniques, I don't  
15 actually think it's been a big focus of this trial. Are you  
16 expecting to sum up on that theme, Mr. Goldsmith?

17 MR. GOLDSMITH: Not the techniques themselves, no.

18 THE COURT: Or the --

19 MR. GOLDSMITH: What I would say is --

20 THE COURT: -- absence of proof?

21 MR. GOLDSMITH: -- keep it in for now. If at the  
22 close of summations the Court feels it's appropriate to keep  
23 in --

24 THE COURT: Well, actually, it's a little more  
25 complicated than that because we make the copies during



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1 summations so that the jury can have copies, as is indicated in  
2 the charge, in their hand as I read it to them. So I can't  
3 wait --

4 MR. GOLDSMITH: Obviously I'll be attacking evidence  
5 but I'm not going to be attacking the means and methods that  
6 the government used, which is I think more what's charged on  
7 page 32 goes after.

8 THE COURT: I guess the thrust of the summation  
9 argument would be that there's been a failure of proof because  
10 they didn't use particular techniques. And I'm not asking you  
11 to -- well, I guess I am asking you to foreshadow your  
12 summation. I'll keep it in unless you tell me that -- okay.  
13 I'll just keep it in, not hearing a commitment. So I'll unbold  
14 that.

15 And I'll be able, after the close of the evidence,  
16 before summations, to decide whether or not the bolded material  
17 on 25 to 26 should come out.

18 Okay. Good. I guess that's it.

19 You saw what I did with respect to translations. A  
20 little surprising to me, but the defendant yesterday took issue  
21 with one of the translations that had been stipulated to, so  
22 you saw at 31, I sort of played with that language at the  
23 bottom of 31. I think it's pretty soft. I don't think it's  
24 objectionable. But that's what prompted that change.

25 Good. Well, thank you for your comments, and



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Thiam - Direct

1 Ms. Rojas will tell us when we have a jury.

2 THE DEPUTY CLERK: All rise.

3 (Recess)

4 (In open court; jury not present)

5 THE COURT: The witness may take the stand. The  
6 defendant may take the stand.

7 Bring in the jury.

8 (Continued on next page)



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Thiam - Direct

1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen.

3 THE JURORS: Good morning.

4 THE COURT: I remind the defendant he is still under  
5 oath.

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Counsel.

8 MR. GOLDSMITH: Thank you, your Honor.

9 MAHMOUD THIAM, resumed.

10 DIRECT EXAMINATION CONTINUED

11 BY MR. GOLDSMITH:

12 Q. Mr. Thiam, we finished yesterday afternoon with you  
13 describing the number of trips that you had between Guinea and  
14 Singapore and China. How many trips did you have in total?

15 A. I cannot remember, but many; multiple trips.

16 Q. And how long were these trips, typically?

17 A. Anywhere from three, four days to two weeks. I've had  
18 trips that lasted six weeks, touring China with --

19 THE COURT: Okay. Excuse me. If you could pull your  
20 chair up, keep your voice up, pull that mic up under your chin.  
21 We need to hear you. Thank you.

22 THE DEFENDANT: Yes, your Honor. I'm sorry.

23 Q. Were you working the entire time?

24 A. No. There was a lot of down time. Those were very long  
25 trips. We were hosts of CIF, and most of the time we basically



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Thiam - Direct

1 spent all day together, either visiting factories, visiting  
2 sites, hosted for lunches, dinners, sometimes sightseeing  
3 trips.

4 Q. So were you discussing the CIF investment project all day?

5 A. No, no, not -- there was a lot of, as I said, social time.

6 Q. What do you mean social time on those trips?

7 A. General conversations, spans anything from global affairs  
8 to family affairs to future, what we will do later, my life  
9 after, after I leave government and so on.

10 Q. I'd like you to take a look at Government Exhibit 401.

11 While that's coming up, have you seen this document before?

12 A. Yes.

13 Q. What is it?

14 A. It's the memorandum of understanding between China  
15 International Fund and the government of Guinea dated June 6,  
16 2009.

17 Q. And did you sign it?

18 A. No.

19 Q. Did you have any role in drafting it?

20 A. Not in the drafting, no.

21 Q. What was your role in regards to the memorandum of  
22 understanding?

23 A. It's -- I was involved earlier on in helping set the  
24 general contours of our -- of our understanding with CIF, how,  
25 from the Guinean side, we understood it should be and what it



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Thiam - Direct

1 should not be.

2 Q. I'd like you to take a look at Government Exhibit 402.

3 MR. GOLDSMITH: Mr. Beer, if you could bring that up.

4 Q. Do you recognize this document?

5 A. Yes.

6 Q. What is it?

7 A. It's the master agreement between the Republic of Guinea  
8 and the CIF. It's dated June 12, 2009.

9 Q. Did you sign it?

10 A. No.

11 Q. What was your -- withdrawn.

12 Did you have any role in drafting it?

13 A. Not in the drafting, no.

14 Q. What was your role in regards to the master agreement dated  
15 June 12<sup>th</sup> of 2009?

16 A. Same as the MOU, just make sure that the spirit of our  
17 understanding is -- is included in.

18 Q. I'd like you to take a look at Government Exhibit 403.

19 MR. GOLDSMITH: Mr. Beer, if you could please show  
20 that.

21 Q. Do you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. It's loan agreement between the Republic of Guinea and CIF  
25 dated June 12, 2009.



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Thiam - Direct

1 Q. Did you sign this agreement?

2 A. I would have to see the rest of the body because there is a  
3 few loan agreements. I don't know which one this is. I do not  
4 see my initials.

5 Q. Could you take a look at page 6.

6 There we go.

7 A. Yes. No, I did not sign this agreement.

8 Q. Did you have any role in drafting the agreement?

9 A. No.

10 Q. Was this agreement a loan agreement regarding the  
11 \$78 million that CIF provided the government of Guinea?

12 A. Yes. Yes, although it could be just a 50 million portion  
13 that went to the ministry of finance or the full 78. I don't  
14 remember if it was one agreement or two agreements.

15 Q. Could you please take a look at Government Exhibit 404.

16 MR. GOLDSMITH: Mr. Beer, if you could also bring that  
17 up as well.

18 Q. Do you recognize this agreement?

19 A. Yes.

20 Q. What is it?

21 A. This is the agreement -- it's a production sharing  
22 agreement for oil exploration between China Sonangol, CIF, and  
23 the government of Guinea.

24 Q. If you recall, did you sign this agreement?

25 A. I believe I did, yes.



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Thiam - Direct

1 Q. Did you have a role in drafting the agreement?

2 A. Not in the drafting, no.

3 Q. Now you testified that you signed it.

4 A. Yes.

5 Q. Why did you sign this particular agreement but not the  
6 others so far?

7 A. Because this one specifically relates to the ministry I was  
8 in charge of. It's -- it's an oil-sharing, production-sharing  
9 agreement, and as minister of mines and energy, I was in charge  
10 of the oil sector so this is -- would be my responsibility.  
11 The others were not. The others were not mining agreements so  
12 I had no role in signing them.

13 Q. Well, let's just clarify the distinction between the  
14 memorandum of understanding and master agreements from June and  
15 this agreement, also dated June, which you did sign.

16 A. Yes.

17 Q. So why is it that you signed this one but not the  
18 memorandum of understanding or the master agreement?

19 A. The memorandum of understanding and the master agreement  
20 were agreements between Guinea as a country and CIF, spanning  
21 multiple sectors of Guinea, the Guinean economy, from  
22 agriculture to fisheries to transportation, to clean water, to  
23 power, and mining was one of maybe seven sectors out of the  
24 sectors that were concerned. Then those agreements state that  
25 CIF and the government of Guinea will then choose together



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Thiam - Direct

1 which specific projects to pursue and the minister in charge of  
2 the sector of the individual projects then would sign  
3 individual agreements related to their own sectors. This is an  
4 individual agreement relating to my sector, which was mines.

5 (Continued on next page)



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Thiam - Direct

1 BY MR. GOLDSMITH:

2 Q. I'd like you to take a look at Government Exhibit 405.

3 MR. GOLDSMITH: Mr. Beer, would you show 405.

4 A. Yes.

5 Q. What is this?

6 A. This is a cover sheet that accompanies a letter between a  
7 minister and another minister or the prime minister and one of  
8 his ministers, and this is a cover letter of -- a cover letter  
9 from the prime minister's office to the minister of state,  
10 Boubacar Barry.

11 Q. If you could look at the next page, is this the letter you  
12 were just referring to?

13 A. Yes.

14 Q. And what is the purpose of the letter?

15 A. This is a letter that the prime minister addresses to the  
16 minister of state, and basically he states that as he has  
17 informed him before, he has asked Minister Mahmoud Thiam, which  
18 is me, currently in Asia with the president of CIF, Mr. Sam, to  
19 please send us a list of all the documents required to finalize  
20 the creation of the ADC Holding Company.

21 MR. GOLDSMITH: Is there another page on that exhibit,  
22 Mr. Beer?

23 Q. And if you could describe what this is, Mr. Thiam.

24 A. This is an email from, it seems to be a forward of an email  
25 from me to the prime minister -- no. Sorry. It's an email



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Thiam - Direct

1 from me to the prime minister -- I'm sorry -- with the July 9,  
2 2009, and where I refer to my previous telephone conversation  
3 with him, and I submit to him the list of the documents  
4 necessary for us to conduct our mission in Asia.

5 Q. And were these documents at the request of the Chinese or  
6 at the request of the Guineans?

7 A. Those are the documents the prime minister referred to in  
8 the previous email where he asked me to make, to give him a  
9 list, to obtain from the Chinese a list of all the documents  
10 required to complete the, the creation of the joint venture  
11 company. It asks for documents that would allow the Guinean  
12 central bank to open a bank account in Singapore or in China,  
13 all the documents that would be required to justify, to legally  
14 justify Guinea's taking participation in ADC; the power of  
15 attorneys to the minister of state that will allow him to sign  
16 the different agreements, and all the documents that would be  
17 required for ADC and CIF to be able to open and maintain a bank  
18 account at the central bank of Guinea.

19 Q. Did you have any role in determining which documents were  
20 necessary?

21 A. No. I was just sent basically a list of requirements from  
22 both side, and I transmitted it to each side.

23 Q. If I could have you take a look at Government Exhibit 406,  
24 have you seen this document before?

25 A. Yes.



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Thiam - Direct

1 Q. What is it?

2 A. This is the master agreement between the government of  
3 Guinea, CIF, and China Sonangol, dated July 18, 2009.

4 Q. Did you sign this agreement?

5 A. No.

6 Q. Did you draft the agreement?

7 A. No.

8 Q. Did you have any responsibilities associated with the  
9 creation of this version of the master agreement?

10 A. No.

11 Q. Now, are you aware of whether or not there was a meeting or  
12 convening of the council of ministers in or about October 8,  
13 2009, related to the shareholders agreement?

14 A. Yes.

15 Q. Were you at that meeting?

16 A. Yes, I was.

17 Q. And there was testimony earlier in this trial that the  
18 technical committee raised concerns about the draft of the  
19 shareholders agreement?

20 A. Yes.

21 Q. First of all, what was the technical committee?

22 A. The technical committee was a committee of advisers headed  
23 by the prime minister's senior adviser, a few of the prime  
24 minister's advisers, advisers from the president's office, and  
25 advisers from various ministries.



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1 Q. Did they express any of their concerns to you directly?

2 A. After the, after the cabinet meeting, the prime minister  
3 called me and informed me that he was sending the technical  
4 committee to visit me and to discuss some of their comments and  
5 concerns.

6 Q. Do you remember what their specific concerns were at the  
7 time?

8 A. In general, yes. In general terms, they were concerned  
9 about certain clauses of the contract that they felt either  
10 violated Guinean law or gave exclusivity in some areas that  
11 apparent -- that the law did not permit.

12 Q. And what, if any, response did you give them?

13 A. Well, I couldn't give them much of a response, because that  
14 decision was way over my head. I took notes and told them that  
15 we would discuss it with my bosses, which is the prime  
16 minister, Boubacar Barry, and the president.

17 Q. Did you discuss those concerns with Mr. Barry, the prime  
18 minister, and the president?

19 A. Yes.

20 Q. And what, if any, reaction did you receive?

21 A. Well, there were two levels of reaction. Between  
22 Mr. Barry, the prime minister and myself, we looked at the  
23 document again, and we found that some of the concerns were a  
24 misreading of the text of the agreement. The exclusivities  
25 were not blanket exclusivities, but standard exclusivities,



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1 clauses relating to specific projects, which were not only  
2 normal but necessary, and so we took those to the president and  
3 basically instructed the prime minister to proceed.

4 MR. GOLDSMITH: Could we please take a look at  
5 Government Exhibit 408.

6 Q. Do you recognize this document?

7 A. Yes.

8 Q. What is it?

9 A. It's a shareholder agreement between the Republic of  
10 Guinea, CIF, and China Sonangol International, dated October  
11 10, 2009.

12 Q. Is this the -- withdrawn.

13 Were the concerns that were addressed by the technical  
14 committee changed at all by the time this document was signed?

15 A. I'm not 100 percent sure. I know that there was a lot of  
16 back-and-forth between the two negotiating teams, and the final  
17 document that was brought by the Guinean technical team is this  
18 one to the signature table. I know that some of the concerns,  
19 that the decision makers have decided that were not justified  
20 and were ignored and some of them were just misreadings, so I'm  
21 not sure what made it and what did not make it.

22 Q. Do you see your initials on this document?

23 A. Yes.

24 Q. And where are they?

25 A. At the bottom right, the MT.



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Thiam - Direct

1 Q. Did you sign this document?

2 A. No.

3 Q. Did you draft the document?

4 A. No.

5 Q. Other than what you've already described, did you have any  
6 additional role in how the document was created?

7 A. No. No minister had the role in that.

8 Q. Why did you initial but not sign?

9 A. Frankly, I'm not sure. I must just have been around and as  
10 one of the ministers present they asked me to initial it, but  
11 it's not a document as a minister of mines I was supposed to  
12 sign.

13 Q. Did you receive any bribe from anyone at CIF or Sonangol  
14 related to the shareholder agreement that is Government Exhibit  
15 408?

16 A. No.

17 Q. Did you receive any bribe related to the master agreements  
18 that you've discussed earlier, whether they be June or July  
19 2009 --

20 A. No.

21 Q. -- from CIF or Sonangol?

22 A. No.

23 Q. Did anyone approach you at any time from CIF or Sonangol to  
24 offer you money or other benefits to do something related to  
25 those agreements?



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1 A. No.

2 Q. Did anyone from CIF or Sonangol ever offer you any money or  
3 benefits to not do something in relation to those agreements?

4 A. No.

5 MR. GOLDSMITH: Could we please take a look at  
6 Government Exhibit 409.

7 Q. Have you seen this document before?

8 A. Yes.

9 Q. What is it?

10 A. It's another loan agreement between the Republic of Guinea  
11 and CIF as the lender.

12 Q. Did you sign this loan agreement?

13 A. There's no indication as to the subject, so I'm not sure if  
14 this one is one I signed or not.

15 MR. GOLDSMITH: Could we highlight page 19, Mr. Beer.  
16 Thank you.

17 A. Yes. Yes, I signed this document.

18 Q. Do you remember anything else about this particular  
19 agreement?

20 A. Yes. It's a loan agreement between the Republic of Guinea  
21 and CIF as per our general agreement, and this was a short-term  
22 loan of about, I think, I believe \$3.3 million to pay for an  
23 emergency audit of a mining company with which the government  
24 of Guinea was in conflict.

25 Q. Why, if you recall, is the government of Guinea requesting



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Thiam - Direct

1 a loan to pay for auditing expenses?

2 A. Because we have, as I mentioned, a conflict with the mining  
3 company. The government of Guinea was claiming that the  
4 company owed Guinea about \$2 billion in back taxes, rent, and  
5 other, and other receivables. The Russian company was denying  
6 it. The audits that were performed were performed by local  
7 auditors that we did not feel would be acceptable to an  
8 international tribunal, and we planned to go to an  
9 international tribunal, and we needed on an emergency basis a  
10 full audit done by a reputable international firm so that we  
11 could use that, the results of the audit, abroad.

12 Q. In short, the government of Guinea did not have the money  
13 on hand to pay for the audit?

14 A. No.

15 Q. Did there come a time when you stopped your, or stopped  
16 working for the government of Guinea?

17 A. Ultimately, yes.

18 Q. When was that?

19 A. December 2010.

20 Q. When did you start your position as the minister of mines?

21 A. January, mid-January, 2009.

22 Q. How long of a period of time were you the minister of  
23 mines?

24 A. About two years, a little under two years.

25 Q. Do you recall yesterday testifying about your acceptance to



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Thiam - Direct

1 the role of minister of mines?

2 A. Yes.

3 Q. Was there a different time frame that you had in mind when  
4 you accepted the position?

5 A. Yes. My personal time frame originally was six months, and  
6 they asked me to commit to at least 12 to 18 months, which I  
7 did.

8 Q. And you stayed longer than the 12 to 18 months, though,  
9 correct?

10 A. Yes.

11 Q. Why?

12 A. When the first 12 months came along, I tried to resign. I  
13 was asked to stay on because the country was going through  
14 turmoil.

15 Q. Who asked you to stay on?

16 A. The head of state of France.

17 Q. What was the turmoil that was going on at the time?

18 A. There was massive civil unrest. The tensions between the  
19 military and the population and the politicians were rising.  
20 The pressure was mounting on the military to shorten their  
21 announced two-year stay, and the sanctions regime was taking  
22 its toll, and people were really concerned that it might  
23 disintegrate into civil unrest or even civil war or something  
24 worse.

25 Q. Why did the French government ask you to stay on?



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1 A. Because they were concerned about the ability of President  
2 Dadis to maintain calm and avoid a massacre. They asked my  
3 opinion. I told them that really I was not in a position to  
4 answer then, but since I was flying from France, once I  
5 reached, I would try to appraise the situation. They suggested  
6 sending an observation team to come help assess. I informed  
7 the president that an observation team would be coming, and  
8 that if they felt he was in a position to maintain calm and  
9 avoid a disaster, they would not press on their threat to send  
10 in international troops, which we felt would further  
11 destabilize the country if it was done, because we did not know  
12 how the soldiers would react.

13 Q. Did you ultimately make a decision based on that request?

14 A. Based on that request, yes, I agreed to stay.

15 Q. Had you continued to have discussions with the  
16 representatives from CIF and Sonangol after the October  
17 shareholders agreement was executed?

18 A. Yes, but less for a period, because as I said, things were  
19 getting very tense. They led to the president being shot in  
20 the head by his own head of security, and everything went  
21 downward from there, so no one was really focused on anything  
22 else but the survival of the country and their own survival at  
23 that time.

24 Q. Did you receive a payment of any funds from Sam Pa?

25 A. Yes, I did.



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Thiam - Direct

1 Q. How much money did you get from Sam Pa?

2 A. In totality, \$8.5 million.

3 Q. Why did you get money from Sam Pa?

4 A. Because I asked him on a few occasions for a personal loan.

5 Q. Personal loan of \$8-1/2 million?

6 A. Originally, no. Originally it was five, and then I asked,  
7 and then I asked him for another loan.

8 Q. Why did you ask Sam Pa?

9 A. Because he's the only person I knew then who had virtually  
10 unlimited funds and could do it. He's the only person I could  
11 ask without it looking like I was asking for something in  
12 return for something else I could give him in Guinea, where I  
13 was a minister.

14 Q. Let me stop you. You were in ongoing business  
15 relationships with Mr. Sam Pa as the minister of mines of  
16 Guinea?

17 A. I would not call it a business relationship. My role as  
18 minister was also to take Mr. Pa to countries outside of Guinea  
19 as per our agreement and to help CIF in their venture with  
20 Guinea get contracts in those other countries.

21 Q. Why did you believe that it was appropriate for you to ask  
22 Sam Pa for a personal loan?

23 A. Well, I don't know about appropriate. It was a desperate  
24 situation, and he's the only person I could ask, as I said,  
25 again, without compromising myself.



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Thiam - Direct

1 Q. Why did you need \$5 million?

2 A. Because my financial situation as I went into Guinea had  
3 basically deteriorated. The moneys that Baker had collected on  
4 my behalf out of the moneys he owed me we spent between him  
5 maintaining me in Guinea and maintaining my family in New York.

6 Q. Let me stop you. Who is Baker again?

7 A. Baker Al-Sadi, my business partner I mentioned yesterday.

8 Q. So you had ongoing business relationships with Mr. Al-Sadi  
9 while you were the minister of mines?

10 A. I have had an ongoing business relationship with Baker from  
11 before I was a minister.

12 THE COURT: So is that a yes?

13 THE WITNESS: Yes -- no. That's a no.

14 Q. Let me clarify. Did you have an existing business  
15 relationship with Baker Al-Sadi prior to becoming the minister  
16 of mines?

17 A. Yes.

18 Q. What was that relationship?

19 A. It was a personal and business relationship. We had  
20 multiple transactions and business deals together. Some of  
21 them had materialized and generated profits. Some of them were  
22 still pending, and so basically when I decided to go to Guinea  
23 and I decided to cover my own expenses for everything, I went  
24 to him and asked him to make sure that both my expenses and my  
25 family's expenses were taken care of.



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1 Q. And why did you need \$5 million from Sam Pa if you had an  
2 existing business relationship with Baker Al-Sadi?

3 A. Because the money with Baker ran out. The businesses that  
4 we were counting on to keep surviving during my stay in Guinea,  
5 because of the crisis, virtually all went belly-up, and I had  
6 accumulated extraordinary debt, and I needed to repay that debt  
7 urgently, and the money I asked as a loan from Sam was mostly  
8 to pay for that, for debt.

9 Q. What did Sam get in return from you for lending the money?

10 A. A promise to repay, and I believe from what he himself  
11 said, he was confident that he would make it back with the  
12 business we'd do outside of Guinea.

13 Q. Did he ask you to do anything within your role as the  
14 minister of mines in exchange for lending you those millions of  
15 dollars?

16 A. No.

17 Q. Did you promise to do anything as the minister of mines for  
18 the Republic of Guinea in exchange for him lending you that  
19 money?

20 A. No.

21 Q. Did you, in fact, do anything as the minister of mines in  
22 exchange for Sam lending you all that money?

23 A. No.

24 Q. Did you, in fact, not do or abstain from doing something  
25 within your role as the minister of mines in exchange for Sam



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Thiam - Direct

1 giving you that loan?

2 A. No.

3 Q. When was the last time you spoke to Sam Pa?

4 A. Sometimes in -- I would say a little late 2011 or mid-2012,  
5 I would think.

6 Q. How was your relationship with Sam Pa the last time you  
7 spoke with him?

8 A. By the last time we spoke, it had started deteriorating or  
9 was at the tail end, I would say.

10 Q. How did it deteriorate?

11 A. It deteriorated because Sam and I had developed a very  
12 close personal relationship. We spent a lot of time together.  
13 He really had a lot of hope that he could count on my help and  
14 my expertise in the mining industry to help him do mining  
15 business elsewhere, after I leave my post in Guinea. At some  
16 point he, from one of his top employees, I heard that he saw me  
17 like kind of a, of a son, and he asked me to come and join CIF  
18 as the vice president of international operations, and I told  
19 him I could not. And that's when things started going south.

20 Q. Let me back up a little bit. When you asked for the loan  
21 from Sam, did he give you the loan?

22 A. Yes.

23 Q. Did you ask how he got the money to give you the loan?

24 A. No.

25 Q. Did you know anything about where the money came from when



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Thiam - Direct

1 he gave you the loan?

2 A. No.

3 Q. Did you open a bank account in Hong Kong?

4 A. Yes, I did.

5 Q. Did you open that bank account in Hong Kong with Sam or any  
6 other representative of CIF or Sonangol around you?

7 A. I opened it with Sam. I opened it with Sam's help.

8 Q. Why did you open the bank account in Hong Kong?

9 A. I opened the bank account in Hong Kong because of the  
10 sanctions regime. For the same reason the central bank of  
11 Guinea and the government of Guinea was trying to open a bank  
12 account in Asia, we were under sanctions. All our assets,  
13 economic assets and financial assets were being frozen, and in  
14 my conversation with the French government when I agreed to  
15 stay on, they suggested I find an alternative banking account  
16 because my assets were about to be frozen. So I asked Sam to  
17 help me open an account first in Singapore, but then there,  
18 because of my PEP status, the Singaporean bank refused to open  
19 the account, and Sam suggested helping me open an account at  
20 HSBC Hong Kong because he had a very large relationship with  
21 them and they could open it under -- with his recommendation.

22 Q. Did you open the account in Hong Kong to hide the source of  
23 the funds in any way?

24 A. No. I opened the account in Hong Kong to have an account  
25 that I could get funded with some money so I could survive.



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Thiam - Direct

1 Q. Now, on the topic of PEP status and the bank accounts, you  
2 opened a bank account in the Hong Kong Singapore bank, HSBC, in  
3 the New York branch on Madison Avenue. Do you recall that?

4 A. Yes, I do.

5 Q. And do you recall how you filled out the information on the  
6 application for that, to open that account?

7 A. Yes, I do.

8 Q. Did you alert the bank at the time that you were the acting  
9 minister of mines for Guinea?

10 A. No, I did not.

11 Q. Why?

12 A. Because that's exactly what I was trying to avoid, being  
13 classified as a PEP, because from my experience as a banker,  
14 being classified as a PEP is an automatic bank closure, and I  
15 needed to maintain an open bank account so I could feed my  
16 family while I was abroad.

17 Q. Did you lie about being the minister of mines in any way to  
18 hide the source of the loan money?

19 A. No.

20 Q. There was also at the time -- well, in response to your  
21 application, there were some follow-up questions?

22 A. Yes.

23 Q. Do you recall having either telephone calls or meetings  
24 with other HSBC New York bank representatives?

25 A. I had other meetings but with the same bank representative.



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Thiam - Direct

1 Q. Did they ask you if you were the minister of mines?

2 A. Yes, they did.

3 Q. What was your response?

4 A. I said yes.

5 Q. Once you told them that you were the minister of mines for  
6 the Republic of Guinea, what happened with the account?

7 A. What I expected it to happen. It ultimately got closed.

8 Q. There was also an investigation from ChaseBank. Do you  
9 recall that?

10 A. Yes.

11 Q. Do you recall the representatives from ChaseBank asking you  
12 several questions about your position or -- withdrawn, about  
13 your employment?

14 A. Yes.

15 Q. Do you also recall them asking questions about the source  
16 of money that you were receiving in your accounts?

17 A. Yes.

18 Q. What did you explain to the employees of Chase about your  
19 work?

20 A. I believe I told them I was a consultant and that -- yes,  
21 that's what I think I said.

22 Q. Did you tell them that you were the minister of mines?

23 A. No.

24 Q. Why?

25 A. For the same reason. I had the bank account with Chase



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Thiam - Direct

1 since 1993, when I started my professional life. That account  
2 grew to be my only family account, and once I gave a PEP, I was  
3 concerned that that account might be closed and I would not be  
4 able to maintain my family in New York while I was away. And  
5 my prime concern was to be treated as Mahmoud Thiam, private  
6 citizen, who opened an account in 1993 and took a 12- or  
7 18-month break to go help his country, as opposed to Mahmoud  
8 Thiam, minister of mines, who is a PEP and whose account will  
9 be closed.

10 Q. Do you recall that you had to provide some answers with the  
11 assistance of Baker Al-Sadi to questions from ChaseBank?

12 A. Yes.

13 Q. And do you recall working with Baker to provide those  
14 answers?

15 A. Yes.

16 Q. Why were you working closely with Baker to provide answers  
17 on the source of funds for that account?

18 A. Because, to -- once again, to avoid being linked to the PEP  
19 status, I needed to show that the true transactions I had  
20 conducted over the years with Baker were the ones we  
21 documented, justify, to justify the money in the account and  
22 that it's not linked to me and minister of mines.

23 Q. Did your answer to any of the questions in the ChaseBank  
24 review have anything to do with Sam Pa?

25 A. No.



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Thiam - Direct

1 Q. Did your answers in the ChaseBank review have anything to  
2 do with your wanting to hide the source of the money --

3 A. No.

4 Q. -- from Sam Pa?

5 A. No.

6 Q. What happened with the Chase account?

7 A. It was closed.

8 Q. Now, you also testified a few moments ago that you were  
9 concerned about carrying on the ability to support your family?

10 A. Yes.

11 Q. Did your wife have a bank account at the time?

12 A. She had -- that was our joint account. She had a business  
13 account. I don't know if she had a separate personal -- I  
14 think she did have a personal account.

15 Q. Why not just have the money that you needed to survive put  
16 into your wife's account?

17 A. Because, for the same reasons, it would be linked to me and  
18 it would be closed once it was found out that I was a PEP,  
19 which is what happened. All her accounts relating to me  
20 ultimately were closed as well.

21 Q. Do you recall how many of your bank accounts got closed in  
22 or around 2010 or '11?

23 A. 2010 and '11? Every bank account I ever had was closed in  
24 the U.S. at some point or the other. During that specific  
25 period, I don't know; maybe three or four already. It's not



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Thiam - Direct

1 that I had three or four accounts at the same time. It's that  
2 every time I opened one and my PEP status or former PEP status  
3 popped up, it was closed, to the point where I was unable to  
4 maintain a bank account.

5 Q. Did that happen even after you had resigned from being the  
6 minister of mines for the Republic of Guinea?

7 A. Absolutely. It happened up to my very last account that I  
8 was ever able to be -- to open closed, I believe, on December  
9 13, 2016, and I haven't been able to have an account since.

10 Q. Now, you spent how many years working in the banking  
11 industry?

12 A. I spent 14 years.

13 Q. Did you have any experience in those 14 years with  
14 customers that had a PEP status?

15 A. Yes, extensive.

16 Q. What was your experience when you were working in the  
17 banking industry about how people with PEP status were treated?

18 A. Well, before September 11, 2001, a person with a PEP status  
19 was treated with additional scrutiny, and I would say 70  
20 percent of the time their accounts ended up being closed by the  
21 banks, but the bank would go through the effort of asking them  
22 questions and see if they could maintain it somehow. After the  
23 Patriot Act in 2011, the government put the burden on the  
24 banks, made them responsible in case money that was supposed to  
25 be at the bank made it in, and therefore the bank took the



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Thiam - Direct

1 position whereby, by default, if you're a PEP, especially if  
2 you're a PEP from an African or Latin-American country, the  
3 bank will close your account.

4 Q. Why?

5 A. It's a risk they weren't willing to take. You could be a  
6 PEP and have a perfectly legitimate reason to have money in the  
7 account, but the bank compliance had as a rule that it's safer  
8 not to maintain the account.

9 Q. Did there come a time when you were involved in a purchase  
10 of a house up in Dutchess County?

11 A. Yes.

12 Q. What was your involvement in the purchase of the house in  
13 Dutchess County?

14 A. I was involved at two levels. I was involved in the  
15 recommendation and the choice of the house. I recommended to  
16 my friend and business partner Aquil to buy the house as an  
17 investment. He had approached me and said that because of the  
18 crisis, real estate -- he had read or heard in the news that  
19 real estate prices in the U.S. were very depressed, and as a  
20 result he wanted to buy some property. I believe it was either  
21 in North Carolina or in the Washington, D.C. area. I suggested  
22 to him to try a market like New York, because when the markets  
23 or the prices come back, New York was likely to benefit more  
24 and faster. And I suggested, a little selfishly, the Millbrook  
25 area, because that's where we had been vacationing and renting



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Thiam - Direct

1 summer houses and I suggested that he buy someplace there.

2 That way I would be able to rent it from him and then when the  
3 markets recovered and he wanted to take his profit, if I was in  
4 a position to buy it, I would buy it from him.

5 Q. And why were you -- withdrawn.

6 Were you the one paying all of the rehabilitation  
7 costs on the house?

8 A. Yes, as per our agreement. Yes.

9 Q. Why were you the one paying it rather than your partner?

10 A. The understanding was as follows: He acquires the house.  
11 I rent it at a, at a monthly rate that's below market, and in  
12 return, I -- in return for using the house and having a  
13 submarket rent, I was responsible for the renovations. And  
14 then after a while, once the renovations were done and I had  
15 re-, I had recovered that money, we would bring it back to a  
16 market rent.

17 Q. Now, what was the name of the company that bought the house  
18 up in Dutchess?

19 A. It's Sociedade Saboeira de Nacala.

20 Q. Can I call it SSNL for short?

21 A. Yes.

22 Q. What's your relationship with SSNL?

23 A. SSNL is the company that my partner Aquil and his family  
24 own and operate in Mozambique.

25 Q. What kind of a company is it?



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Thiam - Direct

1 A. It's primarily a soap- and detergent-making company.

2 Q. Now, you also heard some testimony about an organization,  
3 PIL, or Pacific Inter-Link?

4 A. Yes.

5 Q. What is PIL?

6 A. PIL is one of the world's largest exporters of crude and  
7 oil, based in Malaysia.

8 Q. Do you have any idea about the business relationship of PIL  
9 and SSNL?

10 A. Yes. PIL is -- was at the time; I don't know if it's still  
11 the case -- the sole or largest supplier of crude palm oil to  
12 SSNL. Crude palm oil is the raw material, the most used in the  
13 making of soap and detergents and the making of food products,  
14 which SSNL also makes.

15 Q. Did you pay for any part of the house, for the purchase  
16 price?

17 A. No.

18 Q. Who paid for it?

19 A. Aquil. SSNL, basically.

20 Q. Did you provide any money to Aquil related to that house?

21 A. Related to the purchase of the house, no. I saw in the  
22 presentations a wire that I sent to PIL at his request. I  
23 believe I understand what happened there and that probably  
24 that, in the payment of his deposit, I might have advanced him  
25 that money on a temporary basis.



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Thiam - Direct

1 Q. What do you mean "advanced"?

2 A. Well, Aquil and I have had a business relationship. We  
3 made money and paid for our expenses. Whoever had the cash on  
4 hand at the time would pay, the other would refund him and  
5 things like that, so sometimes he would ask me to pay,  
6 sometimes I would ask him to pay. In this particular  
7 situation, my understanding is that he was supposed to pay for  
8 the deposit. The deposit was supposed to come fast. He paid  
9 it from their account at SSNL in Mozambique, and I also  
10 understand that he owed payment to PIL for invoices on supplies  
11 he had received, and most likely he deprived -- he took that  
12 375 from the money he was supposed to send PIL, and he asked me  
13 if I could replace it if I had it on hand. I had it on hand  
14 and I sent it.

15 Q. You testified a moment ago that you would loan money back  
16 and forth with Aquil?

17 A. Yes.

18 Q. Over what period of time have you been loaning money back  
19 and forth with Aquil?

20 A. I would say from late 2009 to about a year ago, or actually  
21 even less than a year ago.

22 Q. Did you guys ever have any formal loan agreements?

23 A. No. It was an understanding between partners and friends.  
24 Most of the money we earned together he earned and therefore he  
25 collected my share, and he could pay himself back from my share



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Thiam - Direct

1 whenever he got it.

2 Q. Did you have any formal writings that would express your  
3 ability to loan money back and forth with each other?

4 A. No. It was an informal understanding.

5 Q. Did you have any loan agreements or documents with the  
6 loans you asked for from Sam Pa?

7 A. No, no.

8 Q. Why not?

9 A. Because it was the same thing. It was a personal loan. It  
10 was a verbal understanding. We agreed that I would pay him  
11 back, and -- either from money we would make together later or  
12 from money I was hoping to make soon. And when I discussed it  
13 with him again, he said he's not concerned because as far as  
14 he's concerned, he's made that money back through the help I  
15 gave him on two, in two different countries.

16 Q. Did you have any other loan exchanges or agreements with  
17 other people in your life at this time?

18 A. Yes, yes, yes.

19 Q. And who were those people?

20 A. Same. Typically, friends, business partners, personal  
21 friends, family friends. We help each other. We loan money  
22 back and forth to each other; there's never or rarely  
23 paperwork. From time to time there's paperwork.

24 Q. I'd like to show you what's been marked as Defense Exhibit  
25 D for identification. Do you recognize Defense Exhibit D, the



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Thiam - Direct

1 data?

2 A. Yes.

3 Q. What is it?

4 A. It's an email from a gentleman called Desire Seka to me.

5 THE COURT: D-E-S-I-R-E, S-E-K-A.

6 A. And subject is, it's in French. It says --

7 MR. KOBRE: Objection, your Honor.

8 THE COURT: Sustained.

9 THE WITNESS: OK.

10 BY MR. GOLDSMITH:

11 Q. Let me show you what's been marked as -- well, withdrawn.

12 What is the email?

13 A. Sorry?

14 Q. What is the email?

15 A. It's an email from Desire to me.

16 MR. KOBRE: Objection.

17 THE COURT: Sustained.

18 Q. I'd like to show you what's been marked as Exhibit E, for  
19 identification only. I'll take this back. Do you recognize  
20 Exhibit E?

21 A. Yes.

22 Q. What is it?

23 A. It's an email from the same Desire Seka to me.

24 Q. Who is Desire Seka?

25 A. Desire Seka is an old friend of mine.



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Thiam - Direct

1 Q. Where does he live?

2 A. He lives in the Washington, D.C. area.

3 Q. And what is your relationship with Mr. Seka, other than  
4 being an old friend?

5 A. We're just very old friends. We also have the type of  
6 relationship when either of us runs out of cash or needs cash  
7 for something and the other has it, we advance it back and  
8 forth to each other.

9 Q. Do you have any formal agreements with Mr. Seka when you  
10 loan each other cash?

11 A. No, we never have any.

12 Q. How long have you had a relationship with each other where  
13 you've loaned each other cash?

14 A. Oh, for many years, I would say. A good ten years.

15 Q. Could I ask you to take a look at Government Exhibit 519-T.  
16 Do you see 519-T?

17 A. Yes.

18 Q. What is it?

19 A. It's an email from me to -- I see an email address. I  
20 cannot recognize it.

21 Q. Back up a little bit or push the microphone. It's going  
22 into your shirt.

23 A. Sorry.

24 It's an email from myself to an email address I don't  
25 recognize, and it looks like --



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Thiam - Direct

1 Q. Is there a date on it?

2 A. October 13, 2009.

3 Q. If you could read to yourself what the body of the email is  
4 discussing.

5 A. I'm sorry. What?

6 Q. Read to yourself the body of the email.

7 A. OK.

8 OK.

9 Q. Do you remember this email?

10 A. Yes, I do.

11 Q. What is it?

12 A. It's an email with a list of questions from a journalist,  
13 inquiring about the CIF deal.

14 Q. I'd like to show you what's been marked as Defense Exhibit  
15 A, for identification only. This is a two-page document. Do  
16 you recognize Defense Exhibit A?

17 A. Yes, I do.

18 Q. What is it?

19 A. It's -- seems to be the same questionnaire from that same  
20 journalist.

21 Q. Is it in English or French?

22 A. In English.

23 Q. What is the second page?

24 A. The second page --

25 MR. KOBRE: Objection, your Honor.



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Thiam - Cross

1 THE COURT: Overruled.

2 You can describe it generally.

3 A. The second page is an email from me, responding to the same  
4 journalist.

5 Q. You can put it down.

6 At any time when you were acting as the minister of  
7 mines, did you accept any kind of benefit from any member or  
8 representative of China International Fund or Sonangol in  
9 exchange for favor?

10 A. No.

11 Q. Have you made any misrepresentations to any banks in the  
12 U.S. or in Hong Kong about what your work status was?

13 A. Yes.

14 Q. Why did you make those misrepresentations?

15 A. To avoid being classified as a PEP and having my accounts  
16 closed.

17 Q. Were there any other reasons?

18 A. No.

19 MR. GOLDSMITH: No further questions at this time.

20 CROSS-EXAMINATION

21 BY MR. KOBRE:

22 Q. Good morning, Mr. Thiam.

23 A. Good morning.

24 Q. You testified on direct examination about your J.P. Morgan  
25 Chase account?



H52Wthi2

Thiam - Cross

1 A. Yes.

2 Q. And you had that account, it was in your name and in your  
3 wife's name?

4 A. Yes.

5 Q. And you also talked about your bank account in Hong Kong,  
6 correct?

7 A. Correct.

8 Q. And in fact, you directed several wire transfers from the  
9 Hong Kong account to your J.P. Morgan account, is that right?

10 A. That's correct.

11 Q. In fact --

12 MR. KOBRE: Mr. Beer, if we can pull up, please,  
13 Government Exhibit 104, page 3, and if you could enlarge the  
14 upper half of that. If you could even enlarge it just a little  
15 bit more, the list, the list of --

16 Q. -- these are some of the wire transfers. For example,  
17 let's just focus on the first one. You wired, on November 16,  
18 2009, about \$119,000 from Hong Kong to J.P. Morgan?

19 A. Yes.

20 Q. Correct?

21 A. Correct.

22 Q. And in part, as a result of this, you received a call from  
23 an employee at J.P. Morgan, correct?

24 A. Much later, yes. But, yes.

25 Q. Later. And in fact, that was in about March of 2010?



H52Wthi2

Thiam - Cross

1 A. Yes.

2 Q. And you spoke with that employee; her name was Ms. Aring,  
3 correct?

4 A. Yes.

5 Q. She testified here?

6 A. Yes.

7 Q. And she asked you some questions about the source of your  
8 funds?

9 A. Yes.

10 Q. In the Hong Kong account, right?

11 A. Yes, uh-huh.

12 MR. KOBRE: If we could go, Mr. Beer, to Government  
13 Exhibit 104, page 12, and if we can just enlarge the top entry.

14 Q. In fact, she specifically asked you, during a phone  
15 conversation on March 25, the funding source of the wires from  
16 your account in Hong Kong, is that correct?

17 A. Yes, I believe so.

18 Q. I'm referring to point 2.

19 A. Yes.

20 Q. And you told her that it was from, funded by several  
21 sources of income, business transactions, and prior years'  
22 consulting jobs, correct?

23 A. Yes.

24 Q. You did not tell her it was a loan?

25 A. No.



H52Wthi2

Thiam - Cross

1 Q. And you also told her that it was not from recent  
2 consulting that you had done, correct?

3 A. True.

4 Q. And you told her, in fact, that you had not done any  
5 consulting in the last 15 months?

6 A. Yes.

7 Q. And so what you told Ms. Aring was not true, correct?

8 A. Correct.

9 Q. Now, Mr. Thiam, before -- you then were asked by Ms. Aring  
10 to follow up with some, provide some additional information to  
11 the bank, correct?

12 A. Correct.

13 Q. And you subsequently sent a letter to Ms. Aring to answer  
14 some of the questions?

15 A. Yes.

16 Q. And before you sent that letter to Ms. Aring, you sent it  
17 to this individual, Baker Al-Sadi?

18 A. Correct.

19 MR. KOBRE: And if we can pull up Government Exhibit  
20 534, and if we can enlarge the text in the emails.

21 Q. You engaged in an exchange with Mr. Al-Sadi on March 26,  
22 2010?

23 A. Yes.

24 Q. And that was the same day as you later provided Ms. Aring  
25 with the answers to her questions, correct?



H52Wthi2

Thiam - Cross

1 A. Correct.

2 Q. And Mr. Al-Sadi, after you forwarded the, after you  
3 forwarded your proposed responses, Mr. Al-Sadi said, replied to  
4 you, "Looks fine if they don't dig too deep," correct?

5 A. Yes.

6 Q. You replied, "Cool. How do I treat your answers, just  
7 attach them?" Correct?

8 A. Yes.

9 Q. And Mr. Al-Sadi replied, "Buy some time by saying you asked  
10 me to send them to you, and we'll see if they follow up"?

11 A. Yes.

12 Q. And then after that exchange, you, in fact, sent the letter  
13 to Ms. Aring?

14 A. Yes -- well, before, actually, I think.

15 Q. I'm sorry?

16 A. It could be even before the exchange I had sent it to her.

17 Q. Well, but I mean, the date of this exchange is,  
18 Mr. Al-Sadi's final reply to you was March 26, 2010, at 1810?

19 A. OK.

20 Q. That's 6:10 p.m.

21 MR. KOBRE: And if we can pull up, Mr. Beer,  
22 Government Exhibit 5 -- well, let's go back for a moment to  
23 Government Exhibit 104, page 12.

24 Q. You testified earlier that one of the, a reason that you  
25 lied to J.P. Morgan was you were concerned about them closing



H52Wthi2

Thiam - Cross

1 your account, is that right?

2 A. Yes.

3 Q. And you were concerned about that because they would --  
4 because of your, they might find you to be a PEP, correct?

5 A. Yes.

6 Q. And a PEP is a politically exposed person, right?

7 A. Yes.

8 Q. And nothing about -- well, withdrawn.

9 Your answer about the source of income to Ms. Aring  
10 and it having come from prior consulting jobs, that would not  
11 have revealed to J.P. Morgan Chase alone that you were a PEP,  
12 correct?

13 A. No.

14 Q. Had you told Ms. Aring that it was a loan, she would not  
15 have known just from that statement alone that you were a PEP,  
16 right?

17 MR. GOLDSMITH: Objection.

18 THE COURT: Overruled.

19 A. A loan from where?

20 Q. Well, I'm simply asking, had you truthfully, under your  
21 testimony today, told Ms. Aring that the money was -- from the  
22 Hong Kong account was a loan, that fact alone would not have  
23 revealed to Ms. Aring that you were a PEP. Correct?

24 A. No, not correct.

25 Q. I'm sorry?



H52Wthi2

Thiam - Cross

1 A. Not correct. It would have.

2 Q. The fact that it was a loan alone?

3 A. Yes.

4 Q. A loan, just simply that it was a loan, that would not have  
5 revealed to Ms. Aring that you were the minister of mines or a  
6 public official, correct?

7 A. It would have led to the question, A loan from whom, from  
8 where?

9 Q. I understand that, but just the fact that it was a loan?

10 A. No, no.

11 Q. Now, Mr. Thiam, you filed tax returns in 2009, correct?

12 A. Yes.

13 THE COURT: Sir, it's hard to hear your voice. Thank  
14 you.

15 Q. Is it your testimony that you were careful when you filed  
16 those tax returns in --

17 A. No.

18 Q. I'm sorry?

19 A. It's not my testimony that I was careful.

20 Q. You were not careful when you filed the tax returns?

21 A. No.

22 Q. In fact, you filed tax returns in 2009, correct?

23 A. Yes.

24 Q. And you had received \$3 million in 2009 from Sam Pa,  
25 correct?



H52Wthi2

Thiam - Cross

1 A. Yes.

2 Q. And you did not report those on your 2009 tax returns?

3 A. No.

4 Q. Correct?

5 A. No.

6 Q. And you're also aware, sir, that there is a requirement for  
7 something called an FBAR?

8 A. Yes.

9 Q. And FBAR stands for foreign bank account -- relates to  
10 foreign bank accounts, correct?

11 A. Yes.

12 Q. And it's a requirement that, under the law, if you have a  
13 person with an interest in a foreign bank account that has more  
14 than \$10,000 --

15 MR. GOLDSMITH: Objection.

16 THE COURT: Overruled. Don't object until the  
17 question's answered.

18 BY MR. KOBRE:

19 Q. -- you understand that a person with a foreign bank, with  
20 an interest in a foreign bank account, under certain  
21 circumstances, must file a form with the government?

22 A. Yes.

23 MR. GOLDSMITH: Objection.

24 THE COURT: I'm sorry. I meant to say do not object  
25 in a way that interrupts the question. Of course you may



H52Wthi2

Thiam - Cross

1 object as soon as the question is posed.

2 The objection is overruled.

3 BY MR. KOBRE:

4 Q. Are you aware of that?

5 A. Yes, I am.

6 Q. And in the year 2009, you had an interest in a foreign bank  
7 account with more than \$10,000 in it, correct?

8 A. Yes.

9 Q. In fact, you had an interest in a foreign bank account that  
10 had at some point \$3 million in it, correct?

11 A. True.

12 Q. That's the Hong Kong HSBC account?

13 A. Yes.

14 Q. And you did not file the required FBAR that year, correct?

15 A. No.

16 Q. Now, it's your testimony -- let's talk a little bit about  
17 your 2010 tax return. You filed a tax return in 2010 as well,  
18 correct?

19 A. I did.

20 Q. And on that tax return, you reported several million  
21 dollars in income, correct?

22 A. Yes. I don't remember, but I assume you're right.

23 Q. OK. And you were, in fact, you reported some of the money  
24 that you had received from Sam Pa on that 2010 tax return, is  
25 that correct?



H52Wthi2

Thiam - Cross

1 A. I don't remember, but it's possible.

2 MR. KOBRE: My colleague, Mr. DiMase, is approaching  
3 the witness with what's marked as Government Exhibit 1802 for  
4 identification.

5 Q. I'm going to direct your attention to the middle of the  
6 first page, and I'm going to ask you again. Do you now recall  
7 reporting about \$5.8 million in income on your 2010 tax return?

8 A. Yes.

9 Q. And that money included some of the money that you had  
10 received from Sam Pa, correct?

11 A. Most likely, yes.

12 Q. Most of it was the money you had received from Sam Pa,  
13 correct?

14 A. Yes.

15 Q. And in fact, when you reported that money on your 2010 tax  
16 return, you reported to the IRS that that money had come from  
17 consulting work that you had performed, correct?

18 A. Uh-huh.

19 THE COURT: Is that yes?

20 THE WITNESS: Yes.

21 A. Yes.

22 Q. You did not report to the IRS on your tax return that it  
23 was money from a loan, as you testified here today?

24 A. No.

25 Q. And in fact, as a result of your reporting this income on



H52Wthi2

Thiam - Cross

1 your 2010 tax return, you had a tax liability that year,  
2 correct?

3 A. Yes.

4 Q. Not a small tax liability, but roughly a \$2 million tax  
5 liability, is that right?

6 A. Yes.

7 Q. Despite your testimony here today that the money was a  
8 loan?

9 A. Yes.

10 Q. And to be clear, if it was a loan, you would not have to  
11 pay taxes on a loan, correct?

12 MR. GOLDSMITH: Objection.

13 THE COURT: Overruled.

14 A. Not if I could document it.

15 Q. You would not have had to pay taxes if it was a loan if you  
16 could document it, correct?

17 A. If it was a loan that I could document, yes.

18 Q. Now, you testified earlier about your opening up, your  
19 opening this bank account in Hong Kong, correct?

20 A. Yes.

21 Q. And I believe you testified that you opened it up in  
22 person, correct?

23 A. Yes.

24 Q. When you were in Hong Kong, correct?

25 A. Yes.



H52Wthi2

Thiam - Cross

1 Q. And in fact, Mr. Sam Pa came with you to open up the  
2 account, right?

3 A. Yes.

4 Q. And you opened it up in the bank that he himself would bank  
5 in?

6 A. Yes.

7 Q. Which is that branch, correct?

8 A. Yes, that's correct.

9 Q. In fact, that bank account was close by to the offices of  
10 CIF?

11 A. Yes.

12 Q. It was in the same building, correct?

13 A. Yes.

14 Q. And you, at the time you opened up -- you opened up that  
15 account on September 24, 2009, correct?

16 A. I -- yes, I take it.

17 MR. KOBRE: Ok. Why don't we put up Government  
18 Exhibit 304A. I'm sorry. 301A, and if we could just enlarge  
19 the first half of that page.

20 Q. And if you look at the upper portion of the upper left-hand  
21 corner of the page, date, do you see that's September 24, 2009?

22 A. Yes.

23 Q. And in fact, you had traveled to Hong Kong -- that was in  
24 Hong Kong, correct?

25 A. That was in Hong Kong.



H52Wthi2

Thiam - Cross

1 Q. And you had traveled to Hong Kong the prior day, September  
2 23, correct?

3 A. I don't recall.

4 Q. And you left Hong Kong the day after this, September 25,  
5 2009, correct?

6 A. It's possible.

7 Q. And when you opened up the bank account, you, on this day,  
8 were a citizen of the United States?

9 A. Yes.

10 (Continued on next page)

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H521thi3

Thiam - Cross

1 BY MR. KOBRE:

2 Q. You were a citizen of the Republic of Guinea?

3 A. Absolutely.

4 Q. You had a valid United States passport, correct?

5 A. Yes.

6 Q. And you had a valid Guinean passport.

7 A. Yes.

8 Q. In fact, it wasn't simply a regular Guinean passport, it  
9 was a Guinean diplomatic passport.

10 A. Yes.

11 Q. And the Guinean diplomatic passport indicated that you were  
12 a minister in Guinea, correct?

13 A. Yes, yes.

14 Q. And you didn't present to the bank your US passport,  
15 correct, in opening up this account, when they asked you?

16 A. I don't know if I presented it or not. I did not use it.

17 Q. You didn't use it?

18 A. I might have presented it.

19 Q. You might have presented it but you didn't use it.

20 A. No.

21 Q. And you didn't use your Guinean diplomatic passport,  
22 correct?

23 A. No, no.

24 Q. And in fact, you told them that your nationality was  
25 from -- was France.



H521thi3

Thiam - Cross

1 A. I gave them my French passport, yes.

2 Q. Okay. And you were also asked, as part of the process --  
3 as you stood there, I assume, with Mr. Pa?

4 A. Yes.

5 Q. Okay. You were asked what your employment status was and  
6 you told them you were full-time employed.

7 A. Yes.

8 Q. And you were asked what's the nature of your job, correct?

9 A. Yes.

10 Q. And you told them that you were a -- "other professional  
11 jobs," and when you were more specifically asked your job  
12 title, you told them consultant, correct?

13 A. Yes.

14 Q. In fact, at this time you were the minister of mines of the  
15 Republic of Guinea.

16 A. Yes.

17 Q. And you were standing together with an individual who had  
18 business before the Republic of Guinea, correct?

19 A. Yes.

20 Q. Now you testified that the money that you received, the  
21 \$8.5 million that you received was a loan, correct?

22 A. Yes, I did.

23 Q. And that loan was from Sam Pa.

24 A. Yes.

25 Q. And that money came in three separate or rather four



H521thi3

Thiam - Cross

1 separate parts, correct?

2 A. Yes.

3 Q. And we've seen testimony of that during this trial,  
4 correct?

5 A. Mm-hmm, yes.

6 Q. And the first payment of \$3 million came on this date,  
7 September 24, 2009, correct?

8 A. Yes.

9 Q. I'm sorry. That was the following day; it was the 25<sup>th</sup>,  
10 correct?

11 A. That same period, yes.

12 Q. Okay. Well, so we can all be on the same page, why don't  
13 we put up Government Exhibit 1002 and go to the last page.

14 So looking at that, you received the first payment on  
15 September 25, 2009, correct?

16 A. Yes.

17 Q. And that was a payment of \$3 million.

18 A. It was, yes.

19 Q. It was money that was from an account in the name of Sam  
20 Pa, correct?

21 A. Yes.

22 Q. And then just going down to the bottom transfer, the next  
23 transfer you received was on March 15, 2010, correct?

24 A. Yes.

25 Q. And that money was from a different individual, correct?



H521thi3

Thiam - Cross

1 A. Yes.

2 Q. It was from an individual named Wang Xiang-Fei?

3 A. Yes.

4 Q. And Wang Xiang-Fei is also an executive of China Sonangol,  
5 correct?

6 A. I assume so, yes.

7 Q. Okay. You've met Wang Xiang-Fei before.

8 A. I'm not sure.

9 Q. You're not sure if you met him.

10 A. No.

11 Q. Okay. But we can be sure that Wang Xiang-Fei is a  
12 different person than Sam Pa, correct?

13 A. Absolutely, yes.

14 Q. And you had not asked Wang Xiang-Fei for a loan.

15 A. No.

16 Q. Okay. And then after that you received the fourth transfer  
17 on June 2, 2010, correct?

18 A. Yes.

19 Q. I'm referring to the middle of that exhibit. Do you see  
20 that?

21 A. Yes, I do, yes.

22 Q. Okay. And that was a \$2 million transfer.

23 A. Mm-hmm, yes.

24 Q. And that was from an account in the name of both Sam Pa and  
25 Lo Fung Hung.



H521thi3

Thiam - Cross

1 A. Yes.

2 Q. Okay. And Lo Fung Hung was somebody you had met before.

3 A. Yes.

4 Q. But you had not asked Lo Fung Hung for the loan.

5 A. No.

6 Q. The conversation about the loan was simply with Sam Pa.

7 A. Yes.

8 Q. And then after that, you received another \$500,000 transfer  
9 later.

10 A. Yes.

11 Q. Okay. So you had received this loan from three different  
12 individuals, correct? A total of three individuals.

13 A. I had requested the loan from one individual, yes.

14 Q. Yes. You requested the loan from one individual; that was  
15 Sam Pa.

16 A. Yes.

17 Q. And you received the loan in four separate transfers,  
18 correct?

19 A. I find that out here. I did not know that before.

20 Q. You didn't know that before.

21 A. No.

22 Q. So you had not looked at your bank statements.

23 A. It does not say who send the money.

24 Q. It doesn't say who sent the money on your bank statement.

25 A. No. But yes.



H521thi3

Thiam - Cross

1 Q. And we'll take a look at that in a moment.

2 Do you recall, sir, you testified today there were no  
3 documents to back up this loan, is that right?

4 A. No.

5 Q. And it was a verbal agreement. Correct?

6 A. Yes.

7 Q. And it was a verbal agreement between you and Sam Pa.

8 A. Yes.

9 Q. And there was no interest rate agreed on, correct?

10 A. No.

11 Q. And there was no date by which you would need to repay this  
12 loan, is that right?

13 A. No.

14 Q. And now after you left your position as minister of mines,  
15 you still maintained contact for some period of time with  
16 Mr. Pa, correct?

17 A. Yes.

18 Q. And you asked Mr. Pa at some point after you left your  
19 position for additional loans.

20 A. Yes.

21 Q. And he refused to extend additional loans to you at that  
22 point.

23 A. Yes.

24 Q. Now let's turn a bit to your work as minister of mines.

25 A. Mm-hmm.



H521thi3

Thiam - Cross

1 Q. You took the position as minister of mines roughly in  
2 January 2009, correct?

3 A. Yes.

4 Q. And your position as minister of mines was of great  
5 importance, correct, to the mining sector?

6 A. Yes. Yes.

7 Q. Okay. And you also testified that you first met Mr. Sam Pa  
8 in May or June of 2009, correct?

9 A. I did not remember exactly, but that's what your agent  
10 testified to.

11 Q. Well, I think you testified yesterday as to when you first  
12 met Mr. Pa, right?

13 A. I said late spring, early summer. I didn't remember the  
14 date exactly.

15 Q. Okay. Late spring, early summer of 2009, is that right?

16 A. Yes.

17 Q. Okay. And that was the first time you had ever met Mr. Pa  
18 in person.

19 A. Yes.

20 Q. Or spoken to him on the phone, correct?

21 A. Yes.

22 Q. And in fact, we looked at an email yesterday where you were  
23 inquiring, on June 6, 2009, you were asking an associate about  
24 Sam Pa, correct?

25 A. Yes.



H521thi3

Thiam - Cross

1 Q. And your testimony was that you were directed to negotiate  
2 with Mr. Pa, correct?

3 A. Yes.

4 Q. And I'm correct that you were the technical head of those  
5 negotiations, correct?

6 A. I was a technical arm, not the technical head.

7 Q. So is it your testimony now that you were not the head, the  
8 person in charge of the technical negotiations?

9 A. I was not the person in charge of the negotiations. I  
10 handled the technical aspect of it, yes.

11 Q. And when you say you handled, that means you were the  
12 senior person in terms of the technical negotiations, is that  
13 right?

14 A. I'm not sure that's a correct characterization, but I'll  
15 accept it.

16 MR. KOBRE: Okay. Well, can we play, Mr. Beer, if we  
17 can publish for the jury Government Exhibit 801-A, clip 14,  
18 which is in evidence.

19 (Video played)

20 Q. So there was a delegation of two, as you said, correct?

21 A. Yes.

22 Q. And you were the technical head of that delegation,  
23 correct?

24 A. I believe I said the technical guy.

25 Q. The technical guy of that delegation. Okay.



H521thi3

Thiam - Cross

1 A. Okay.

2 Q. And this loan that you testified about today, you haven't  
3 paid that back, correct?

4 A. Well, according to Sam, yes, but I haven't physically paid  
5 it, but he told me that he considered it paid back.

6 Q. Okay. But you haven't actually transferred any money to  
7 Sam Pa, correct?

8 A. No.

9 Q. And you didn't transfer any money back to Wang Xiang-Fei,  
10 correct?

11 A. I was never -- I was transferring money back to Sam Pa, not  
12 to Wang Xiang-Fei.

13 Q. You have not personally paid any money to an executive of  
14 CIF, correct?

15 A. Correct.

16 Q. Okay. You testified yesterday a little bit about the  
17 events that led to your coming to be the minister of mines.

18 A. Yes.

19 Q. And you testified that you decided not, when you -- you  
20 accepted the position, correct?

21 A. Yes.

22 Q. And when you accepted the position, you decided not to take  
23 a salary, is that right?

24 A. Yes.

25 Q. And you didn't take a salary.



H521thi3

Thiam - Cross

1 A. I did not take it, no.

2 Q. You recall we talked a little bit earlier about your 2010  
3 tax return, correct?

4 A. Yes.

5 Q. And you recall that you reported having received income on  
6 that tax return, correct?

7 A. Yes.

8 Q. So in fact, you reported having received \$85,000 in income  
9 from the ministry of mines on your 2010 tax return, correct?

10 A. I don't recall, but it's possible, yes.

11 Q. So in fact you did take a salary as part of your work for  
12 your work in Guinea?

13 A. I did not. I received a salary. I did not take it. I did  
14 not take any money from the government of Guinea.

15 Q. You didn't take it but you nonetheless reported it on your  
16 2010 tax returns.

17 A. Yes, because it was paid, but I did not take it.

18 Q. It was paid but you didn't take it.

19 A. Exactly.

20 Q. Okay. And so your testimony today is that you actually  
21 received that money, correct?

22 A. No. I just said I did not receive it. I did not take it.  
23 It was paid into a Central Bank account. I did not take it.

24 Q. Okay. It was paid to another bank account not in your  
25 name.



H521thi3

1 A. It was paid to a Central Bank account where all the  
2 ministers had their accounts, and I decided not to take mine.  
3 All mine was given away.

4 Q. So it went into an account, it did go into an account in  
5 your name, is that your testimony?

6 A. Yes, yes.

7 Q. But it was given away subsequent to that.

8 A. Yes.

9 Q. Now we talked a little bit about your work with CIF.

10 THE COURT: Counsel, choose some time to break between  
11 now and 11:30.

12 MR. KOBRE: I think now would be just fine.

13 THE COURT: Okay. Ladies and gentlemen, let Ms. Rojas  
14 know when you're ready to resume.

15 (Continued on next page)



H521thi3

(Jury not present)

THE COURT: You may step down.

THE WITNESS: Thank you.

THE COURT: Does the government have any issues to raise at this break?

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith?

MR. GOLDSMITH: Not at this time, but I do want to bring up, we were in the middle of discussing the possibility of a limiting instruction regarding conflict of interest from the bank representatives. We don't need to do that this second, but I did just want to remind the Court that we will need to set aside some time for it later on.

THE COURT: Okay. I actually thought I'd ruled on that. I didn't know we had an open issue.

MR. GOLDSMITH: You had asked me --

THE COURT: If counsel want to pull up transcript references. My recollection of the issue that was raised was the context in which the discussion of a conflict came up between HSBC bank officials and the defendant and whether or not it was the defendant who was talking about, in essence, I didn't tell you I was the minister of mines because of the issue of conflicts.

MR. GOLDSMITH: Right. I had a chance --

THE COURT: Have you checked the transcript?



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1 MR. GOLDSMITH: Yes.

2 THE COURT: And can you give me the page references  
3 or --

4 MR. GOLDSMITH: There are a number, so --

5 THE COURT: Great.

6 MR. GOLDSMITH: -- I'll provide them to the Court to  
7 address later on today?

8 THE COURT: I'm happy to have your description of them  
9 now.

10 MR. GOLDSMITH: Ms. Hayes --

11 THE COURT: Page?

12 MR. GOLDSMITH: Page 607.

13 THE COURT: And have counsel discussed this with each  
14 other?

15 MR. GOLDSMITH: No. We haven't had time because of  
16 the requests to charge earlier.

17 THE COURT: Oh, okay. Good. Then it is premature,  
18 and thank you very much.

19 MR. GOLDSMITH: Yes.

20 THE COURT: Why don't you just give me the page cites  
21 and I'll look at them too.

22 MR. GOLDSMITH: Thank you. So it's page 607,  
23 line 5 --

24 THE COURT: Just give me the pages. I'll read the  
25 whole page.



H521thi3

Thiam - Cross

1 MR. GOLDSMITH: And it's Mr. Damle, page 630.

2 THE COURT: Great.

3 MR. GOLDSMITH: And earlier testimony, Ms. Aring, was  
4 page 76.

5 THE COURT: 76?

6 MR. GOLDSMITH: 76. 79, 87, and 95, and 98.

7 THE COURT: Okay. Now that was prior; that was  
8 earlier in the trial.

9 MR. GOLDSMITH: Correct.

10 THE COURT: Okay. Good. Thanks.

11 MR. GOLDSMITH: Thank you.

12 (Recess)

13 (In open court; jury not present)

14 THE COURT: The defendant may retake the stand.  
15 Bring in the jury.

16 (Continued on next page)

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H521thi3

Thiam - Cross

1 (Jury present)

2 THE COURT: Counsel.

3 BY MR. KOBRE:

4 Q. You testified yesterday about some meetings that you had  
5 with Sam Pa and other members of CIF. Do you remember that?

6 A. Yes.

7 Q. And in particular, you described one in which you asked  
8 Mr. Pa to bring Mr. Vicente to Guinea, is that right?

9 A. Yes.

10 Q. And Mr. Vicente in fact came to Guinea.

11 A. Yes.

12 Q. And he met with you and other members of the Guinean  
13 government --

14 A. Yes.

15 Q. -- together with Sam Pa.

16 A. Yes.

17 MR. KOBRE: And I'm going to ask Mr. Beer to publish  
18 Government Exhibit 503.

19 If we can just highlight the bottom email, or rather  
20 enlarge it.

21 Q. And this is an email that you sent to Baker Al-Sadi,  
22 correct?

23 A. Mm-hmm.

24 THE COURT: Is that yes?

25 THE WITNESS: Sorry. Yes. Sorry.



H521thi3

Thiam - Cross

1 Q. And you sent it on June 13, 2009, correct?

2 A. Correct.

3 Q. And that's the day after the signing of the framework  
4 agreement, correct?

5 A. Yes.

6 Q. Okay. And in this email you tell Baker Al-Sadi that you  
7 "had chairman of Sonangol here for two days with chairman of  
8 China International Fund. Great prospect. More important,"  
9 and then Mr. Beer, if we can go to the next page, and enlarge  
10 that. "Developed great relationship with both. And you know  
11 how hard it is to get Sonangol guy."

12 A. Yes.

13 Q. You wrote that email, right?

14 A. I did, yes.

15 Q. And when you said you developed great relationships with  
16 both, you were referring to Manuel Vicente and Sam Pa, correct?

17 A. Yes, absolutely.

18 Q. So on June 13, 2009, during the June trip, during this  
19 trip, you had developed relationships with both of these  
20 individuals, correct?

21 A. No, I developed it over -- from May, June, when we first  
22 met to then, because we had several meetings with Sam, and then  
23 Manuel came for the first time and -- yes, I developed -- I had  
24 the first -- good first encounter, great relationship, I think.

25 Q. Great. And then after that you also talked about taking a



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Thiam - Cross

1 trip to Singapore, correct?

2 A. In the email?

3 Q. No, no. After this. After this email. Later.

4 A. Well, the trip was planned, yes, for the delegation.

5 Q. Okay. Maybe it's confusing.

6 MR. KOBRE: Mr. Beer, can we just take down that  
7 email.

8 Q. At some later point you took a trip, you took several trips  
9 to Singapore, correct?

10 A. Yes.

11 Q. And some of those trips to Singapore were for the purpose  
12 of the CIF deal.

13 A. Yes.

14 Q. Okay. And one of those trips was in July of 2009.

15 A. Yes, possible.

16 Q. Well, yes or possible?

17 A. Yes.

18 Q. Okay. And in fact, on one of those, you traveled to  
19 Singapore on July 7, 2009, do you recall that?

20 A. I don't recall the date, but --

21 MR. KOBRE: Okay. Well, can we, Mr. Beer, publish  
22 Government Exhibit 506-T. And if we can just enlarge first the  
23 heading.

24 Q. This is an email from yourself to the prime minister,  
25 correct?



H521thi3

Thiam - Cross

1 A. Correct.

2 Q. And it says "Subject: Trip," correct?

3 A. Correct.

4 Q. And it's dated July 9, 2009, correct?

5 A. Correct.

6 MR. KOBRE: And now, Mr. Beer, if we can enlarge the  
7 first -- well, just enlarge the text of the whole email.

8 Q. And I'm going to be reading in a moment from the second  
9 paragraph, after the -- well, let me just read from the  
10 beginning. "Your Excellency Prime Minister. I have the honor  
11 to report back to you on our current mission to Asia at the  
12 CIF."

13 And then you go on to say, "Mr. Theodore Kourouma,  
14 representative of the PRG," that's the People's Republic of  
15 Guinea?

16 A. No.

17 Q. I'm sorry. The President of the Republic of Guinea. Thank  
18 you. "Our ambassador in China, and myself arrived in Singapore  
19 two days ago." Do you see that?

20 A. Yes, I see it.

21 Q. So you arrived in Singapore on July 7, 2009, is that right?

22 A. Right.

23 Q. And you were there on July 9<sup>th</sup>, still in Singapore,  
24 correct?

25 A. Correct.



H521thi3

Thiam - Cross

1 Q. And at this time Mr. Barry was not in Singapore.

2 A. Not yet, no.

3 Q. Okay. And Mr. Sande was not in Singapore, correct?

4 A. No.

5 Q. Okay. So of the negotiating committee that was comprised  
6 of yourself, Mr. Sande, and Mr. Barry, it was only you that was  
7 in Singapore at this moment.

8 A. Yes.

9 Q. And when you got to Singapore, you had some discussions  
10 about the deal with representatives of the Chinese companies.

11 A. Yes.

12 Q. And in particular, they pointed out to you an issue they  
13 had with the framework agreement as it was currently written.  
14 Correct?

15 A. Yes, correct.

16 Q. And the way the framework agreement was in place at that  
17 point was a 75/25 split, correct?

18 A. Correct.

19 Q. And they wanted, for whatever reason, to have a greater  
20 share of the joint venture, correct?

21 A. Yes.

22 Q. And they told that to you, correct?

23 A. Yes.

24 Q. And you came up with a suggestion, correct?

25 A. Correct.



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Thiam - Cross

1 Q. It was your suggestion.

2 A. Yes.

3 Q. Okay. And that was the idea of rejiggering the percentages  
4 with respect to the GDCs, correct? Is that fair to say?

5 A. Yes, both the ADC and the GDCs, yes.

6 Q. Both the ADCs and the GDCs. And you then forwarded that  
7 suggestion to the prime minister, correct?

8 A. Yes.

9 Q. And you forwarded that to him for his consideration and the  
10 consideration of others, correct?

11 A. Yes.

12 Q. And during this same July -- let's call it the July trip to  
13 Singapore --

14 A. Mm-hmm.

15 Q. -- is that -- there was a second framework agreement  
16 discussed, correct?

17 A. I don't remember.

18 MR. KOBRE: Okay. Mr. Beer, if we can post Government  
19 Exhibit -- publish, rather, Government Exhibit 406.

20 And if we can just enlarge this page.

21 Q. This is a framework agreement, right?

22 A. Yes, correct.

23 Q. And it's a framework agreement for the deal, for the  
24 venture between CIF and the Republic of Guinea, correct?

25 A. Yes.



H521thi3

Thiam - Cross

1 Q. And it's dated July 18, 2009, correct?

2 A. Yes.

3 Q. And so this agreement was negotiated in Singapore, correct?

4 A. No, correct -- not correct.

5 Q. Okay. This agreement contains the revised percentages that  
6 you described a moment ago, correct?

7 A. Yes, yes, correct.

8 Q. And so your suggestion was accepted, correct?

9 A. Yes, correct.

10 Q. And the suggestion that you made was made at least no later  
11 than July 9<sup>th</sup>, correct, because that was the date of the  
12 email?

13 A. On July 9, yes.

14 Q. On July 9<sup>th</sup>. And by July 18<sup>th</sup>, it had been  
15 incorporated in a subsequent framework agreement, correct?

16 A. Correct.

17 Q. Okay. And in fact, you're aware that there was one  
18 agreement, there was one framework agreement that was signed on  
19 June 12, 2009, correct?

20 A. Yes, correct.

21 Q. And that's Government Exhibit 402-T.

22 MR. KOBRE: If we can put that up briefly.

23 Q. And that one was signed in Conakry, correct?

24 A. Yes.

25 Q. And then there was a second framework agreement that we



H521thi3

Thiam - Cross

1 just looked at which was signed in Singapore, correct?

2 A. Yes, mm-hmm.

3 MR. KOBRE: So if we can go back to 406-T now.

4 Q. This is the second framework agreement, correct?

5 A. Correct.

6 Q. The one that was signed in Singapore, correct?

7 A. Yes.

8 Q. Okay. And it was signed in Singapore while you were in  
9 Singapore, correct?

10 A. Yes.

11 Q. Okay. And this agreement was not in English, correct?

12 A. Yes, correct.

13 Q. And if you like, we can hand it up to you.

14 A. No, no, it's fine. I can see it.

15 Q. And it was never translated to French, to your knowledge,  
16 correct?

17 A. I don't know.

18 Q. Okay. And this agreement was signed during the same trip  
19 when you were present in Singapore, correct?

20 A. Correct.

21 Q. Okay. And just so we're clear, it incorporated your  
22 July 9<sup>th</sup> suggestion.

23 A. I assume so. I haven't seen the text, but yes, I assume  
24 so.

25 MR. KOBRE: Well, Mr. Beer, if we can publish page 3



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Thiam - Cross

1 of Government Exhibit 406 and enlarge the -- I'm sorry, not  
2 page 3, page 5. There we are. If we can enlarge page 4, the  
3 table?

4 Q. Government Exhibit 406, which is, let's call it the  
5 Singapore master framework agreement, did incorporate your  
6 suggestion.

7 A. Yes.

8 Q. Okay. In fact, there are other differences between the  
9 Singapore framework agreement and the -- let's call it the  
10 Conakry framework agreement, is that right?

11 A. Yes.

12 Q. Okay. And in particular, let's first look at Government  
13 Exhibit 402-T, which is the Conakry framework agreement.

14 MR. KOBRE: And if we can go to page 3. And if we can  
15 enlarge paragraph A. I'm sorry. No, 3, please. And if we can  
16 enlarge paragraph A and B.

17 Q. Now just so we're clear, we're looking at the framework  
18 agreement that was signed on June 12, 2009, right?

19 A. Yes.

20 Q. And it's the one that was signed in Conakry, correct?

21 A. Yes.

22 Q. And it has a list here of specific -- and I'm reading from  
23 paragraph B -- specific projects identified by common agreement  
24 to invest. Do you see that in paragraph B?

25 A. Yes.



H521thi3

Thiam - Cross

1 Q. And there's a list of various projects and it starts with  
2 energy, water treatment, electricity, transportation, housing,  
3 and so on. Do you see that?

4 A. Yes.

5 Q. And in this particular paragraph B there is no mention of  
6 mining, correct?

7 A. Yes, correct.

8 MR. KOBRE: Mr. Beer, if we can now pull up the  
9 Singapore framework agreement, Government Exhibit 406. 406,  
10 please. Not side by side yet.

11 And if we can go to page 3. And if we can pull up the  
12 paragraph A and B under "Whereas."

13 Q. Now we're looking here at the framework agreement signed on  
14 July 18, 2009 in Singapore, correct?

15 A. Correct.

16 Q. And paragraph B here also has a list of projects.

17 A. Yes.

18 Q. Okay. But the list of projects here is different in  
19 certain respects from the list of projects that were listed in  
20 the June 12<sup>th</sup> Conakry framework agreement, correct?

21 A. Yes, yes.

22 Q. And in particular, one of those changes is that, reading  
23 from the second line of paragraph B, this agreement includes as  
24 projects the following, and I'm quoting: "Minerals and mining  
25 (including diamond, coal, bauxite, cobalt, iron ore)." Do you



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Thiam - Cross

1 see that?

2 A. Yes, I see it.

3 Q. So that was added to this agreement, correct?

4 A. Yes.

5 Q. And it was added in Singapore, correct?

6 A. No, not correct.

7 Q. Okay. It was added to the Singapore framework agreement,  
8 correct?

9 A. Yes.

10 Q. Okay. And it had not been contained in the Conakry  
11 framework agreement.

12 A. Correct.

13 Q. Okay. And this agreement was signed in Singapore, correct?

14 A. Yes.

15 Q. Okay. And it was signed in Singapore while you were there.

16 A. Yes.

17 Q. Okay. Now at some point you were asked during direct about  
18 an email that you had sent to the prime minister while you were  
19 in Singapore. Do you remember that?

20 A. Yes.

21 Q. And in fact, while you were in Singapore, you had one,  
22 maybe more phone calls with the prime minister, correct?

23 A. One at least, yes.

24 Q. At least one phone call. And that phone call concerned the  
25 CIF deal, correct?



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Thiam - Cross

1 A. Yes.

2 Q. And then after that you sent a list of items that were  
3 needed to facilitate the CIF deal to the prime minister,  
4 correct?

5 A. At his request, yes, a list of documents that he needed,  
6 yes.

7 Q. Right. It was sent from you, correct?

8 A. Yes.

9 Q. To the prime minister.

10 A. Yes.

11 Q. It was not sent to Mr. Barry, correct?

12 A. No.

13 Q. It was not sent to -- and in fact, no one else was copied  
14 on that email; it was just simply you to the prime minister,  
15 correct?

16 A. Yes.

17 Q. Okay. And after that email you had some email  
18 communications with other individuals in Guinea regarding  
19 obtaining these documents, is that right?

20 A. It's possible, yes.

21 MR. KOBRE: Okay. Well, Mr. Beer, if we can publish  
22 Government Exhibit 509-T.

23 And if we can enlarge just the top email.

24 Q. Now this email is from yourself to an individual by the  
25 name of -- I don't know how to pronounce it, but -- Alhassane



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Thiam - Cross

1 Barry?

2 A. Alhassane Barry.

3 Q. And Alhassane Barry was at the time an employee of the  
4 Central Bank of Guinea, is that correct?

5 A. The governor of the Central Bank of Guinea.

6 Q. The governor of the Central Bank of Guinea. Okay. And he  
7 was a person who you needed documents from, correct?

8 A. Yes.

9 Q. Okay. And -- for the CIF deal.

10 A. No. No.

11 Q. Okay. Well --

12 A. Well, yes, partially, yes. Partly, yes. Sorry.

13 Q. So you did need documents from Mr. Barry for the CIF deal,  
14 correct?

15 A. Yes.

16 Q. And that was to enable CIF to open bank accounts in Guinea,  
17 correct?

18 A. Yes, yes.

19 Q. Okay. And then you also needed to provide some documents  
20 to individuals of CIF as well. Those were the ones you  
21 requested from the prime minister.

22 A. Yes.

23 Q. Okay. And so in this email -- you sent this email on  
24 July 14, 2009, correct?

25 A. Correct.



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Thiam - Cross

1 Q. And the subject is "Re: request for documents," correct?

2 A. Yes.

3 Q. And you say in this email, "Thank you, Mr. Governor. We  
4 are going to request the documents in question and send them.

5 I sent you the bylaws by email last week but my message wasn't  
6 sent. I am sending them." Do you see that?

7 A. Yes.

8 Q. So you were going to obtain documents that were needed by  
9 the governor of the Central Bank of Guinea, correct?

10 A. Correct.

11 Q. And they were needed to facilitate the deal with CIF,  
12 correct?

13 A. They were needed to open the accounts, the CIF accounts at  
14 the Central Bank, yes.

15 Q. Right. And those CIF accounts were going to be used for  
16 the purposes of the joint venture, correct?

17 A. Yes, absolutely.

18 Q. So that was the deal with CIF.

19 A. Yes.

20 Q. Okay. While you were in Singapore during that July trip,  
21 you also forwarded some emails to an individual by the name of  
22 Jimmy Leong, correct?

23 A. Yes.

24 Q. And Jimmy Leong is the CEO of China Sonangol, correct?

25 A. Correct.



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Thiam - Cross

1 Q. Okay. And some of your discussions about the deal with CIF  
2 and with China Sonangol with were Jimmy Leong, correct?

3 A. Yes.

4 Q. You worked together with him to help facilitate the deal,  
5 correct?

6 A. He was there, yes.

7 Q. The answer is yes.

8 A. Yes.

9 Q. Okay. And in fact, it wasn't just Jimmy Leong; we've  
10 talked about Sam Pa today, correct?

11 A. Yes.

12 Q. We've talked about Jimmy Leong.

13 A. Yes.

14 Q. There was also an individual by the name of Jack Cheung,  
15 right?

16 A. I think he was not in Singapore. I think he was in Guinea.

17 Q. Right. But you also had discussions with him about the CIF  
18 deal, correct?

19 A. I don't know if that's accurate. He was a member of the  
20 CIF team. I don't remember having any discussions with him.  
21 He was -- I transmitted documents back and forth, but he  
22 probably talked at the technical level with the technical  
23 committee, yes.

24 Q. Okay. And you're familiar with the name of an individual  
25 named Adrian Liang (ph), correct?



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Thiam - Cross

1 A. Yes.

2 Q. And Adrian Liang is also a member of China Sonangol?

3 A. Yes.

4 Q. And you had email communications with Adrian Liang,  
5 correct?

6 A. Yes.

7 Q. And those were about the deal with CIF, correct?

8 A. Yes.

9 Q. And at some point after your trip to Singapore in July --

10 A. Mm-hmm.

11 Q. -- there came a time when a period passed where you hadn't  
12 had any communications with Mr. Pa, correct?

13 A. Correct.

14 Q. And as a result of that, the president had become concerned  
15 about what was happening with this deal, correct?

16 A. Correct.

17 Q. And as a result of that, you reached out to Madam Lo to  
18 inquire what was up with Sam Pa, why he wasn't in touch.

19 A. Correct.

20 MR. KOBRE: Okay. And Mr. Beer, if we can post  
21 Government Exhibit 516. And if we can enlarge the lower email,  
22 so starting from that -- no, a little bit lower. A little bit  
23 higher. Starting from the email. That would be great.

24 Thanks. Okay.

25 Q. And this is an email that was sent by you to Lo Fung Hung,



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Thiam - Cross

1 correct?

2 A. Yes.

3 Q. And by the way, as we've seen here in this trial, she's one  
4 of the people who you received money from, correct, personally  
5 into your Hong Kong account, correct?

6 A. Yes, yes.

7 Q. Okay. And the email is dated August 30, 2009, correct?

8 A. Correct.

9 Q. And it's titled Information, correct?

10 A. Mm-hmm, yes.

11 Q. And I'll just read it. It says, "Dear Mme. Lo, It has been  
12 a long time since we last communicated and I thought I would  
13 enquire. I hope all is well with you. We are a bit concerned  
14 about the silence from cif side and the president is starting  
15 to ask questions. Can you please advise us as to Sam's  
16 whereabouts." Do you recall sending that email?

17 A. Yes, I do.

18 Q. Okay. And Mr. Barry is not copied on that email, is he?

19 A. No, no.

20 Q. And when you say "We are a bit concerned," you're talking  
21 about the negotiating team on behalf of Guinea, correct?

22 A. Talking about Mr. Barry and the president, who asked me to  
23 reach out here.

24 Q. Okay. And not including yourself.

25 A. I reached out. I was asked to reach out and I reached out,



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Thiam - Cross

1 yes, so I'm included.

2 Q. I mean, when you said "We are a bit concerned," you were  
3 not one of the people who was concerned?

4 A. I said "we." I am speaking so I am, yes.

5 Q. So you and Mr. Barry and the president were all concerned.

6 A. Yes.

7 Q. As part of the negotiation --

8 A. We, Guinea, are concerned.

9 Q. Sure.

10 A. So the whole country is concerned.

11 Q. Okay. You also testified about some more formal meetings  
12 that you attended concerning the CIF deal. Do you recall that?

13 A. Yes.

14 Q. And in particular, you were present at an October 7<sup>th</sup>  
15 meeting concerning the deal, correct?

16 A. Yes. Yes, correct.

17 Q. And at that meeting, it wasn't a full Council of Ministers  
18 meeting.

19 A. No.

20 Q. It was a meeting of the ministers who were most directly  
21 affected by the deal, correct?

22 A. Correct.

23 Q. Okay. And that included you.

24 A. Yes.

25 Q. The mining sector was an important part of the deal,



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Thiam - Cross

1 correct?

2 A. It was, yes.

3 Q. It was. And other ministers, correct?

4 A. Yes.

5 Q. Okay. And at that meeting concerns were presented about  
6 certain provisions in the proposed shareholders agreement, is  
7 that correct?

8 A. I don't recall if it's at that meeting, but yes, I think  
9 it's in the cabinet meeting the next day, but --

10 Q. Okay. Let's look at Government Exhibit 407-T.

11 MR. KOBRE: And if we can just first enlarge the  
12 bottom from introduction.

13 Q. Following -- and I'm reading here from Government  
14 Exhibit 407-T, the bottom of the first page. "Following the  
15 meeting of October 7, 2009 held in the office of the prime  
16 minister, relating to the presentation of the recommendations  
17 of the negotiating committee of the --"

18 MR. KOBRE: And then if we can, Mr. Beer, just publish  
19 the top of the next page.

20 Q. "-- shareholders agreement with the Chinese partners." And  
21 then I'll just stop reading, but it goes on to list some of the  
22 ministers who were there, including yourself.

23 A. Mm-hmm.

24 Q. The prime minister asked to hold a special session of the  
25 Council of Ministers on the following day, October 8, 2009. Do



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Thiam - Cross

1 you see that?

2 A. Yes, yes.

3 MR. KOBRE: Okay. And now if we can just enlarge the  
4 rest of the page all at once.

5 Q. And it says here that the recommendations of the  
6 negotiating committee dealt with the following three points,  
7 and then it goes on to list three points, correct?

8 A. Yes.

9 Q. So am I right that October 7<sup>th</sup>, certain concerns were  
10 raised by the committee, correct?

11 A. Yes.

12 Q. Okay. And one of those points -- if we look at point 2,  
13 one of those points related to the exclusivity, what we'll call  
14 an exclusivity provision in the shareholders agreement,  
15 correct?

16 A. Mm-hmm.

17 THE COURT: Is that yes?

18 A. Sorry. Let me read it.

19 Q. Do you want me to repeat the question?

20 A. No, no. I understand the question. I just want to read it  
21 and understand it.

22 Q. Oh, of course.

23 A. Yes.

24 Q. Okay. And in particular, one of the concerns that was  
25 raised was that the Chinese party -- which I take it refers to



H521thi3

Thiam - Cross

1 CIF, correct?

2 A. Mm-hmm, yes.

3 Q. Okay. -- has requested that it be granted exclusivity over  
4 the rights currently held in Guinea in exploration, mining,  
5 mining concessions, oil and gas activities, and commercial  
6 rights and rights over existing and future mining  
7 opportunities. Is that right?

8 A. Yes, correct.

9 Q. And do you recall that? Do you recall those concerns being  
10 raised?

11 A. Absolutely.

12 Q. Okay. And in fact, that concern was raised again at the  
13 Council of Ministers meeting the following day, correct?

14 A. Yes.

15 Q. And it was raised again in a letter that was sent to you  
16 after the signing of the shareholders agreement by the prime  
17 minister, correct?

18 A. Yes.

19 MR. KOBRE: And I'm going to ask Mr. Beer to publish  
20 Government Exhibit 408.

21 Q. You've seen this before. This is the final signed  
22 shareholders agreement, correct?

23 A. Yes.

24 Q. And your testimony today was that you initialed each page  
25 of this agreement, correct?



H521thi3

Thiam - Cross

1 A. Yes.

2 Q. And this final agreement contains an exclusivity provision,  
3 correct?

4 A. Yes.

5 Q. And in fact, that exclusivity provision is found on  
6 page 12.

7 MR. KOBRE: And if we can just enlarge 4.2.9.

8 Q. And so the exclusivity provision remained in the final  
9 signed shareholders agreement, correct?

10 A. No. Not as it was described in the complaint from the  
11 commission, from the -- this is a different exclusivity  
12 provision. It's not --

13 Q. But there is an exclusivity provision, correct?

14 A. Like in any contract, yes.

15 Q. And this exclusivity provision indicates that full  
16 exclusivity is given to ADC and the GDCs in respect of the  
17 sectors identified and approved by the parties, as set out in  
18 the proposed projects to be undertaken by the GDCs in this  
19 agreement and the master agreement. Is that what it says?

20 A. Project sectors, absolutely, which means for the --

21 THE COURT: You've answered. Thank you.

22 MR. KOBRE: I'm going to ask Mr. Beer to publish  
23 Government Exhibit 408, page 3. And if we can just enlarge  
24 paragraph C.

25 Q. And I'm going to read a brief portion of this. I'm going



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Thiam - Cross

1 to ask you to tell me if that's accurate. "The parties propose  
2 that ADC and the GDCs should be used as their joint venture  
3 vehicle to, *inter alia* --" *inter alia* means among other things,  
4 right?

5 A. Yes.

6 Q. Okay. And then I'm skipping down to (ii). "(ii) invest  
7 and operate diamond, iron, bauxite, gold, oil and gas and  
8 minerals concessions." Is that what is written here?

9 A. Yes.

10 MR. KOBRE: Okay. Now if we can take that down.

11 Q. Let's talk a little bit about what happened -- we talked a  
12 little bit before about your JPMorgan account. Do you recall  
13 that?

14 A. Yes, I recall that.

15 Q. And you were asked some questions by Ms. Aring on a phone  
16 call, correct?

17 A. Correct.

18 Q. You provided some answers, correct?

19 A. Correct.

20 Q. And after that, at some point after that that account was  
21 shut down.

22 A. Yes.

23 Q. And you then decided to open up another bank account in the  
24 United States, correct?

25 A. Correct.



H521thi3

Thiam - Cross

1 Q. And that bank account, or at least one of those bank  
2 accounts was an HSBC bank account here in the United States.

3 A. Yes.

4 Q. In fact, it was a bank account on Madison Avenue, correct?

5 A. Correct.

6 Q. And on June 7, 2010, you went into that HSBC branch on  
7 Madison Avenue, correct?

8 A. Correct.

9 Q. And you told them you wanted to open up a checking account,  
10 correct?

11 A. Correct.

12 Q. And you were asked several questions in connection with  
13 opening up the account, correct?

14 A. Correct.

15 Q. And among the questions that you were asked was about your  
16 current occupation, correct?

17 A. Correct.

18 (Continued on next page)



H52Wthi4

Thiam - Cross.

1 Q. And you lied about your current occupation, correct?

2 A. Yes.

3 MR. KOBRE: Mr. Beer, could we publish Government  
4 Exhibit 102C, and if we could just enlarge that.

5 Q. You told Mr. Damle, who testified here during this trial,  
6 that you were employed by an employer named AMER, correct?

7 A. Correct.

8 Q. And you told him that your position at AMER was that you  
9 were the chairman?

10 A. Correct. I believe I told Mr. Damle that I was planning on  
11 starting something with AMER, but correct.

12 Q. Well, you didn't tell Mr. Damle that you were the minister  
13 of mines of the Republic of Guinea?

14 A. No.

15 Q. Could we agree on that?

16 A. No, I did not.

17 THE COURT: OK, sir. Can you pull your chair closer,  
18 please, and keep your voice up and use the microphone.

19 THE WITNESS: Yes.

20 THE COURT: Thank you.

21 BY MR. KOBRE:

22 Q. At some later point you were called back in to answer some  
23 additional questions at HSBC, correct?

24 A. Yes.

25 Q. And on July 19, 2010, you came back to that same branch,



H52Wthi4

Thiam - Cross.

1 correct?

2 A. Correct.

3 Q. And you met there again with Mr. Damle, correct?

4 A. Yes.

5 Q. And it was only at that point that you told him that you  
6 had been -- that you were, in fact, at the time the minister of  
7 mines of the Republic of Guinea, correct?

8 A. I'm not sure. I believe I -- I think I had told him  
9 before, because I think we had a conversation prior to that,  
10 but --

11 Q. You didn't tell Mr. Damle, until you were specifically  
12 confronted with the fact that you were the minister of mines,  
13 that you were the minister of mines?

14 A. True.

15 Q. Correct?

16 A. True.

17 Q. And on that conversation with, that July 19 conversation  
18 with Mr. Damle, you were asked some additional questions, after  
19 you admitted -- you admitted during that conversation that you  
20 were the minister of mines, correct?

21 A. Correct.

22 Q. And you were asked some other questions about things the  
23 bank wanted to know, right?

24 A. Correct.

25 Q. And in fact --



H52Wthi4

Thiam - Cross.

1 MR. KOBRE: Mr. Beer, if we could publish Government  
2 Exhibit 102F, fifth page, and enlarge the body. Thank you. We  
3 don't even need to enlarge the subject, just the body of the  
4 email.

5 Q. -- you were asked during that conversation about the source  
6 of the funds from the account?

7 A. Yes.

8 Q. And during this conversation with Mr. Damle, you told  
9 Mr. Damle that it was from savings from past employment and  
10 proceeds of the sale of land in Africa, correct?

11 MR. KOBRE: Could we just highlight that.

12 MR. GOLDSMITH: Objection.

13 THE COURT: Overruled.

14 A. Yes.

15 Q. And that was different from what you had told Ms. Aring a  
16 few months earlier, correct?

17 A. Correct.

18 Q. So you had told Ms. Aring that it was from dealings with  
19 Baker Al-Sadi, correct? Correct?

20 A. Correct, yes.

21 Q. And now you're telling the HSBC branch bank that it was  
22 from savings from past employment and proceeds of sale of land  
23 in Africa, correct?

24 A. Correct.

25 Q. And that was not true, correct?



H52Wthi4

Thiam - Cross.

1 A. That was not true.

2 Q. In fact, the money was from Sam Pa, correct?

3 A. Yes.

4 Q. And you told Mr. Damle, you made these statements to  
5 Mr. Damle about the source of the funds in the same  
6 conversation as you told him that you were the minister of  
7 mines, correct?

8 A. Yes.

9 Q. Now, Mr. Thiam, you're aware that corruption is a problem  
10 in certain African countries, correct?

11 A. Absolutely.

12 Q. And at least one part of the problem with corruption is  
13 that it results in the -- it may result in the countries not  
14 receiving the real value that is contained in their economy, in  
15 their economic sectors --

16 MR. GOLDSMITH: Objection.

17 Q. -- is that correct?

18 THE COURT: Overruled.

19 A. Yes.

20 Q. Because if someone gives away, if someone were to take a  
21 bribe and were to, and that would affect the way they would  
22 make certain decisions, that could result in harm to the  
23 country, to their country, correct?

24 MR. GOLDSMITH: Objection.

25 A. Correct, yes.



H52Wthi4

Thiam - Cross.

1 THE COURT: Overruled.

2 Q. And you also were aware that Sam Pa was someone who had  
3 paid bribes before, correct?

4 MR. GOLDSMITH: Objection.

5 THE COURT: Overruled.

6 A. No.

7 Q. You were not aware that Sam Pa was someone who paid bribes?

8 A. No. I had heard rumors, but I was not aware.

9 Q. OK. You heard rumors that Sam Pa was someone who paid  
10 bribes?

11 A. Yes.

12 Q. In fact, you heard rumors that Sam Pa had paid President  
13 Dadis, correct?

14 A. Yes.

15 Q. OK. You saw Sam Pa hand a suitcase, which you believed  
16 contained cash, to an official of the Republic of Guinea,  
17 correct?

18 A. To a political candidate of, of an election, yes.

19 Q. To someone who was working for a political candidate,  
20 correct?

21 A. Yes.

22 Q. But the cash was actually handed to someone who was at the  
23 time an employee of the government of Guinea, correct?

24 A. Yes.

25 Q. So you were aware of those things, and you also knew that



H52Wthi4

Thiam - Cross.

1 he -- or you had at least heard rumors that he paid off heads  
2 of state, correct?

3 A. I've heard rumors, yes.

4 Q. And you were aware of that, correct?

5 A. Yes.

6 Q. You testified earlier that you needed the money from Sam  
7 Pa, correct?

8 A. Correct.

9 Q. And you needed it because you had to feed your family,  
10 correct?

11 A. And pay down debt, yes.

12 Q. Pay down debt and feed your family, correct?

13 MR. KOBRE: Mr. Beer, if we can publish Government  
14 Exhibit 301C, page 159. If we could enlarge the entire text.

15 Q. Now, Mr. Thiam, this is a, it's entitled "interbank fund  
16 transfer." Do you see that?

17 A. Yes.

18 Q. And it's a wire, it's a, this is a document that you need  
19 to fill out if you want to wire transfer funds from your HSBC  
20 account, correct?

21 A. Yes.

22 Q. And it's signed on the bottom left-hand corner by you,  
23 correct?

24 A. Correct.

25 Q. And in fact, there's your phone number listed there and



H52Wthi4

Thiam - Cross.

1 your email address as well, correct?

2 A. Yes.

3 Q. You filled this form out, right?

4 A. Absolutely.

5 Q. And this is a wire transfer from the Hong Kong account,  
6 correct?

7 A. Correct.

8 Q. And it's a fund transfer on August 5, 2010, correct?

9 A. Correct.

10 Q. And it's a fund transfer to Steinway Inc., correct?

11 A. Yes.

12 Q. Steinway Inc. is a piano company, correct?

13 A. Correct.

14 Q. And this was for the purchase of a piano for your  
15 apartment, correct?

16 A. Yes.

17 Q. Mr. Thiam, what's the amount of money listed on this  
18 transfer?

19 A. \$46,375.41, I believe.

20 Q. Thank you.

21 MR. KOBRE: Mr. Beer, if you can publish for the jury  
22 Government Exhibit 301C, page 118.

23 Q. This is another wire transfer from your HSBC Hong Kong  
24 account?

25 A. Yes.



H52Wthi4

Thiam - Cross.

1 Q. You filled it out?

2 A. Yes.

3 Q. It's directed to Simba Lane LLC?

4 A. Yes.

5 Q. And it's in the amount of \$25,000?

6 A. Yes.

7 Q. And this is for your payment for a vacation rental?

8 A. Yes.

9 MR. KOBRE: Mr. Beer, if we can publish Government  
10 Exhibit 301C, page 250.

11 Q. This is another wire transfer from your HSBC Hong Kong  
12 account?

13 A. Yes.

14 Q. You filled it out?

15 A. Yes, I did.

16 Q. And it's a wire transfer on March 14, 2011?

17 A. Yes.

18 Q. And it's to Scardaci Building Co., correct?

19 A. Yes.

20 Q. And this is for work that was to be performed at the 771  
21 Duell Road property?

22 A. Yes.

23 Q. And it's in the amount there of 55,092, correct?

24 A. Correct.

25 MR. KOBRE: Mr. Beer, if you can publish Government



H52Wthi4

Thiam - Cross.

1 Exhibit 301C, page 167.

2 Q. This is another wire transfer from your HSBC Hong Kong  
3 account?

4 A. Yes.

5 Q. And it's a wire transfer that occurred on October 5, 2010?

6 A. Uh-huh. Yes.

7 Q. And you made that wire transfer, right?

8 A. I did, yes.

9 Q. And it's to Interior Design Studio, correct?

10 A. Yes.

11 Q. What is Interior Design Studio?

12 A. Probably an interior-design house.

13 Q. For the 771 Duell Road?

14 A. No, I don't think so.

15 Q. OK. For your apartment in Manhattan?

16 A. Yes, probably.

17 Q. And the amount there is \$51,203, correct?

18 A. Correct.

19 Q. And by the way, this is -- the wire transfers we just  
20 looked at now, this is money that was transferred to you as  
21 part of your loan from Sam Pa, correct?

22 A. Correct.

23 Q. Now, you also, as part of the bank account that you had --

24 MR. KOBRE: You can take that down. Thank you.

25 Q. As part of the bank account that you had at HSBC Hong Kong,



H52Wthi4

Thiam - Cross.

1 you also had a credit card, correct?

2 A. Yes.

3 Q. And that credit card was able to be used, it didn't only  
4 have to be used in Asia; it could be used anywhere, correct?

5 A. Yes.

6 MR. KOBRE: Mr. Beer, if you can publish for the  
7 members of the jury Government Exhibit 301D, page 14 -- rather,  
8 page 18. And if we could enlarge, you could even enlarge it a  
9 little bit more.

10 Q. And am I correct, Mr. Thiam, that you used this HSBC credit  
11 card in Whistler?

12 A. Yes.

13 Q. And Whistler is a ski resort?

14 A. Yes.

15 Q. And you used it to pay for ski schools there?

16 A. Yes.

17 MR. KOBRE: We can take that down.

18 Q. Now, let's talk a little bit about Duell Road; I think you  
19 testified about that.

20 A. Yes.

21 MR. KOBRE: Now, if we can publish, Mr. Beer,  
22 Government Exhibit 1005.

23 Q. You testified that you do recall transferring \$375,000 to a  
24 company called Pacific Inter-Link, correct?

25 A. Yes, uh-huh.



H52Wthi4

Thiam - Cross.

1 Q. And that money was transferred from the Hong Kong account,  
2 correct?

3 A. Correct.

4 Q. And the purpose of that money was to repay money that was  
5 laid out by a company called SSNL, correct?

6 A. To repay?

7 Q. Yes, in exchange for.

8 A. I'm not sure if I would characterize it like that.

9 Q. OK. Well, let's look at an email, Government Exhibit 545.

10 MR. KOBRE: I'm sorry. We can take that down. Just  
11 one moment. Just one moment.

12 Yes, Government Exhibit 543, please. I apologize.  
13 Take this down.

14 Q. You're familiar with an individual named Thomas McGregor,  
15 correct?

16 A. Yes.

17 Q. And Thomas McGregor is an attorney, correct?

18 A. Correct.

19 Q. And Thomas McGregor acted -- and you're also aware that  
20 this company called SSNL purchased, was the purchaser of the  
21 771 Duell Road, correct?

22 A. Yes.

23 Q. And that occurred in November of 2010, correct?

24 A. Yes.

25 Q. And SSNL is a company that was based at an address in



H52Wthi4

Thiam - Cross.

1 Manhattan, correct?

2 A. No, not correct.

3 Q. OK.

4 MR. KOBRE: If we could take a look at Government  
5 Exhibit 201, page 2, and if we can enlarge just the top  
6 portion, starting from the beginning through the first or  
7 second paragraph.

8 Q. This is a deed for the transfer of the property from -- to  
9 SSNL, correct?

10 A. Correct.

11 Q. And that deed is dated the 13th day of November 2010,  
12 correct?

13 A. Yes, correct.

14 Q. And SSNL, am I correct, stands for Sociedade Saboeira de  
15 Nacala?

16 A. Yes.

17 Q. Correct?

18 A. Yes.

19 Q. And that is listed here on this deed, and I'm looking at  
20 the very bottom of the text, with an address at 340 East 64th  
21 Street, 14H, New York, New York. Do you see that?

22 A. I see that, yes.

23 Q. And 340 East 64th Street, that was your home address,  
24 correct?

25 A. Precisely, yes.



H52Wthi4

Thiam - Cross.

1 Q. Precisely. And in fact, your wife, Fatim Thiam, was  
2 someone who was an authorized signer for SSNL, correct?

3 A. She had the power of attorney for the purpose of buying the  
4 property for SSNL, correct.

5 MR. KOBRE: If we could look at Government Exhibit  
6 205A, and if we could just enlarge the bottom signature page.

7 Q. Do you see that?

8 A. Yes, I see that.

9 Q. And that's a real property transfer report, correct?

10 A. Yes.

11 Q. And it's signed. It says buyer, and there's listed as SSNL  
12 as the buyer, correct?

13 A. Yes.

14 Q. And Fatim Thiam is your wife, and she signed as the buyer,  
15 correct?

16 A. Yes, as the power of attorney. Yes.

17 Q. So it's a company that's listed at your home address,  
18 correct?

19 A. No. The company's not listed at my home address. The  
20 power of attorney's at my home address because my wife is under  
21 power of attorney. The company is domiciled in Mozambique.

22 Q. Let me -- I'm sorry. Thank you. Let me rephrase my  
23 question. The company, SSNL, is listed on this deed as having  
24 an address at your home address, correct?

25 A. Yes.



H52Wthi4

Thiam - Cross.

1 Q. And your wife signed as the buyer on the real property  
2 transfer report, correct?

3 A. Signed for the buyer.

4 Q. For the buyer?

5 A. Yes.

6 Q. And so, now this property is owned by SSNL, correct?

7 A. Yes.

8 MR. KOBRE: And if we could just, Mr. Beer, enlarge  
9 the purchase price as reflected here.

10 Q. The full sale price of this property is \$3,750,000,  
11 correct?

12 A. Correct.

13 MR. KOBRE: Now, if we can pull up Government Exhibit  
14 540 and enlarge the bottom portion, to start with.

15 Q. This is an email on November 1, 2010. Do you see that?

16 A. Yes.

17 Q. And it's an email from Sanath Kumar?

18 A. Yes.

19 Q. And Sanath Kumar is someone who is an employee of Mr.  
20 Rajahussen, is that correct?

21 A. I'm not sure if he's an employee of Mr. Rajahussen or PIL.  
22 I don't know.

23 Q. OK. But he's associated with Mr. Rajahussen?

24 A. Yes.

25 Q. Is that fair?



H52Wthi4

Thiam - Cross.

1 A. Yes.

2 Q. And he sends you an email on November 1, 2010, correct?

3 A. Yes.

4 Q. And the subject is SWIFT copy USD 375,000, correct?

5 A. Yes.

6 Q. And SWIFT is a document that's generated by the bank  
7 sometimes when there's a wire transfer, under certain  
8 circumstances, correct?

9 A. Yes.

10 Q. And he says here the following: "Dear sir, sorry for the  
11 delay in providing SWIFT copy, the delay because of network  
12 problem in bank. Please find attached SWIFT copy for the  
13 amount of \$375,000." Correct?

14 A. Yes.

15 MR. KOBRE: Now if we could go to the next page and  
16 enlarge the next page.

17 Q. And it continues now: "And it's our request kindly,  
18 instruct payment amount of USD 375,000 for below-mentioned bank  
19 details." Do you see that?

20 A. Yes.

21 Q. So he tells you, am I correct that in this email, Mr. Kumar  
22 is telling you that he or his company had wired \$375,000 to  
23 Mr. McGregor? Correct?

24 A. Yes.

25 Q. And a little bit further in the email, he requests that you



H52Wthi4

Thiam - Cross.

1 instruct payment of the same amount to Pacific Inter-Link,  
2 correct?

3 A. Correct.

4 Q. And I'm correct that you subsequently did wire \$375,000 to  
5 Pacific Inter-Link?

6 A. I did, yes.

7 Q. And in fact --

8 MR. KOBRE: If we could pull up Government Exhibit  
9 301C, page 184.

10 Q. -- this is another one of those wire transfer reports from  
11 your Hong Kong account, correct?

12 A. Yes.

13 Q. It's signed by you, correct?

14 A. Correct.

15 Q. And it's to -- this is the wire transfer to Pacific  
16 Inter-Link, correct?

17 A. Yes.

18 Q. And it's for \$375,000, correct?

19 A. Yes.

20 Q. And it's dated November --

21 MR. KOBRE: Could we get a little bit more.

22 Q. November 8, 2010, correct?

23 A. Yes.

24 Q. Now, at some point in 2000 -- so we've talked about the  
25 transfer of the property to SSNL?



H52Wthi4

Thiam - Cross.

1 A. Yes.

2 Q. OK. And that happened in November 2010, correct?

3 A. Yes. The -- talked about -- sorry?

4 Q. Sorry. The transfer of the 771 Duell property to SSNL  
5 occurred in November of 2010, correct?

6 A. The purchase by SSNL.

7 Q. Yes.

8 A. There's no transfer.

9 Q. The purchase by SSNL?

10 A. Yes.

11 Q. Am I correct?

12 A. Yes.

13 Q. And then at some later point in 2012, the property was  
14 transferred again from SSNL to another entity, correct?

15 A. Correct.

16 Q. And that other entity is called Amer Holdings, correct?

17 A. Yes.

18 Q. AMER is spelled the same way as it's spelled, A-M-E-R,  
19 correct?

20 A. Correct.

21 Q. And that's the same way that the company that you told HSBC  
22 you were employed by is spelled as well, correct?

23 A. Absolutely, yes.

24 Q. AMER and AMER, correct?

25 A. Correct.



H52Wthi4

Thiam - Cross.

1 Q. And AMER, as it's listed in the deed for the 2012 transfer,  
2 is also listed as having your residential address, correct?

3 A. Yes.

4 MR. KOBRE: In fact, Mr. Beer, if we could publish  
5 Government Exhibit 102C -- I'm sorry. Take that down. 203,  
6 rather, second page, please. And if you could enlarge the  
7 upper portion.

8 Q. So what we have here, so this is a deed reflecting a  
9 transfer of the property in 2012, correct?

10 A. Correct.

11 Q. And it's transferring the property from SSNL, correct?

12 A. Correct.

13 Q. Listed as having, listed here as having an address of 340  
14 East 64th Street, correct?

15 A. Correct.

16 Q. Your home address?

17 A. Yes.

18 Q. Correct?

19 A. Yes.

20 Q. And it's been transferred now to Amer Holdings Pte. having  
21 an address at the same address, correct?

22 A. Correct.

23 Q. Your residence, correct?

24 A. Yes.

25 MR. KOBRE: And if we go to, if we can enlarge the



H52Wthi4

Thiam - Cross.

1 bottom of that page, the signature.

2 Q. This deed is signed by Fatim Thiam?

3 A. Yes.

4 Q. And as a member of SSNL?

5 A. As the power of attorney.

6 Q. OK. But I'm just going to ask, I'm just reading from the  
7 document. It says "by member." Is that what it says there?

8 A. Yes.

9 Q. OK.

10 A. You --

11 Q. Thank you.

12 Now, you testified that you paid a certain amount of  
13 money for some work to be done on 771 Duell Road, correct?

14 A. Yes.

15 Q. And in fact, you paid money to several different companies  
16 that did work on that home, correct?

17 A. Possibly, yes. At least the contractor, Scardaci.

18 Q. Yes, at least Scardaci, right?

19 Are you familiar with an entity called Christopher Peacock  
20 Home?

21 A. Yes.

22 Q. What is Christopher Peacock Home?

23 A. It's a kitchen maker.

24 Q. Sorry?

25 A. It's a kitchen-cabinet maker.



H52Wthi4

Thiam - Cross.

1 Q. Cabinetmaker, and you paid them to do work on 771 Duell  
2 Road as well?

3 A. Yes.

4 Q. Are you also familiar with an entity called Pygma Group?

5 A. Pygma Group?

6 Q. P-Y-G-M-A. Does that sound familiar?

7 A. I'm not sure. No.

8 Q. OK. We'll come back.

9 A. I just don't remember.

10 Q. Sure.

11 A. I'm not saying I don't know.

12 Q. Sure.

13 A. I just don't remember.

14 Q. In fact, you paid Scardaci over a million dollars to do  
15 work on that house, isn't that correct?

16 A. Over a seven year, six-, seven-year period, yes.

17 Q. Over a million dollars?

18 A. Yes.

19 Q. You used the house, correct?

20 A. Yes.

21 Q. In particular, you stayed there on occasion?

22 A. When we had a chance, on vacations, yes.

23 Q. And your wife stayed there as well?

24 A. My family stayed there, yes.

25 Q. You hosted other people there on occasion?



H52Wthi4

Thiam - Cross.

1 A. On occasion, yes.

2 MR. KOBRE: If I might just have one moment, your  
3 Honor?

4 Mr. Beer, if you can publish Government Exhibit 301C,  
5 page 269. You can enlarge that.

6 Q. That's another wire transfer from your Hong Kong account?

7 A. Yes.

8 Q. And it's to, it's dated March 24, 2011?

9 A. Yes.

10 Q. And this is to the kitchen designer, Christopher Peacock  
11 Home?

12 A. Yes.

13 Q. And it's for \$17,000, correct?

14 A. Correct.

15 MR. KOBRE: And Mr. Beer, if we can publish Government  
16 Exhibit 1001.

17 Q. Some of the other things that you spent, you used the money  
18 in your Hong Kong account for are at Barney's New York?

19 A. Yes.

20 Q. Correct?

21 A. Yes.

22 Q. And for airfare to various places?

23 A. Yes.

24 Q. And Cipriani, correct?

25 A. Yes.



H52Wthi4

Thiam - Redirect

1 Q. That's a fancy restaurant?

2 A. It's a restaurant, yes.

3 Q. And for, you used it at Chopard?

4 A. Yes, possible.

5 Q. What is Chopard?

6 A. It's a watch or jewelry store.

7 MR. KOBRE: No further questions.

8 REDIRECT EXAMINATION

9 BY MR. GOLDSMITH:

10 Q. Mr. Thiam, you were asked some questions on  
11 cross-examination regarding your taking a salary as minister of  
12 the mines. Did you accept the salary while you were minister  
13 of mines?

14 A. No, I did not. I was told the salary had, by law, to be  
15 paid to my account at the central bank, and I was free to give  
16 it away or not take it, which I did.

17 Q. Why did you not accept it?

18 A. Because when I decided to go in for the purpose of helping,  
19 I decided that not only the country was, had enough financial  
20 problems and I would take care of my own expenses and not  
21 burden the country with it, which was true for my travel, my  
22 living expense and any other expenses, and also because I  
23 wanted to give, at least give the appearance that I was  
24 independently wealthy and not subject to the traditional needs  
25 and the traditional pressures that the politician or government



H52Wthi4

Thiam - Redirect

1 official is sometimes subject to in an African country.

2 Q. You were asked some questions on cross-examination about a  
3 person named Wang Xiang-Fei?

4 A. Yes.

5 Q. Who is that person?

6 A. I understand he's an employee of Sam Pa or of CIF, but I  
7 don't know the person personally.

8 Q. Do you have any independent recollection of who that person  
9 was?

10 A. No.

11 Q. And you were shown some documents that money was  
12 transferred to your account from that individual?

13 A. Yes.

14 Q. Prior to being shown those documents, did you realize the  
15 money had been transferred from that individual?

16 A. No -- no. Sorry.

17 Q. Do you know why the money was transferred from that  
18 individual?

19 A. Probably on the instruction from Sam Pa.

20 Q. You were asked several questions about your tax returns --

21 A. Yes.

22 Q. -- 2009 and 2010, on cross-examination?

23 A. Yes.

24 Q. Did you prepare your own taxes?

25 A. No.



H52Wthi4

Thiam - Redirect

1 Q. Did you rely upon the advice of a tax professional?

2 A. Yes.

3 Q. You were asked several questions about Government Exhibit  
4 406-T, which is the master agreement?

5 A. Yes.

6 Q. And if you recall you were asked several questions about  
7 the changes from the June version of the master agreement to  
8 the July version of the master agreement. Do you recall those  
9 questions?

10 A. Yes.

11 Q. Were you responsible for drafting the changes?

12 A. No.

13 Q. Who was responsible for drafting the changes?

14 A. The technical committee and the negotiating commission,  
15 which I was not part of.

16 Q. Did you have any authority to insist upon the suggestions  
17 that were referred to in your email being incorporated into the  
18 master agreement?

19 A. No. I could only suggest and ask for the cabinet to decide  
20 and instruct me on how to respond.

21 Q. Are you aware of whatever government actions took place as  
22 a result of your suggestion?

23 A. Well, I know there were conversations between the prime  
24 minister and other members of the committee and the government  
25 in Guinea, and the negotiating committee was instructed --



H52Wthi4

Thiam - Redirect

1 commission, sorry, was instructed as to what to, what to amend  
2 and what not to amend, and there were emails of amended text  
3 flying around between Singapore and Guinea until the final,  
4 agreed text arrived in Singapore.

5 Q. Do you recall why the percentages of 85 percent and 15  
6 percent were discussed during your meetings with the Chinese?

7 A. The meeting in Singapore?

8 Q. Yes.

9 A. I do not recall the exact justification, but there seems to  
10 be -- seemed to be, either in their by-laws or in Singapore  
11 law, or in their ability to raise financing, I believe, if --  
12 my understanding was that if, from what they explained, if they  
13 have to front 100 percent of the cost of the project, carrying  
14 the government at a level of 24 percent was too high and would  
15 make it financially prohibitive, or something, something to  
16 that effect.

17 Q. Do you recall being asked questions about the exclusivity  
18 clause in the shareholders agreement?

19 A. Yes.

20 Q. And you started to provide an answer using the term  
21 "project sector"?

22 A. Yes.

23 Q. Could you please describe what the project sector is?

24 A. The agreement states that the government of Guinea and CIF  
25 will jointly choose specific projects to invest in in various



H52Wthi4

Thiam - Redirect

1 sectors. Once a project is chosen, there is a standard  
2 exclusivity clause where none of the two parties can go and  
3 talk to another party about that specific project. It's not an  
4 exclusivity about everything in mining, everything in  
5 transport, everything in fishery, in Guinea. It's once Guinea  
6 and China picks a project in mining or in fisheries or in  
7 transportation, they are exclusive to that project until one of  
8 the two parties decides they are no longer interested, which is  
9 standard in contract law.

10 Q. You were asked some questions about the Duell Road  
11 property?

12 A. Yes.

13 Q. In upstate New York?

14 A. Yes.

15 Q. Why was your wife the power of attorney on behalf of SSNL?

16 A. Because the, Aquil, the owner of SSNL, is a foreigner and  
17 lives abroad and was not traveling to the U.S. at the time of  
18 the closing. Neither was I. I believe both my wife and I were  
19 granted power of attorney to close on their behalf. I believe  
20 I was traveling, so she was the one remaining. The address of  
21 record on the power of attorney was our home address, and it's  
22 the address, of course, used for all the documentation.

23 Q. You were asked some questions on cross-examination about  
24 several expenditures that you wired money from the Hong Kong  
25 account to pay?



H52Wthi4

Thiam - Redirect

1 A. Yes.

2 Q. Now, could you describe why you used the loan money for  
3 those expenses?

4 A. I took the loan for my personal use and expenses as well as  
5 to support myself in Guinea while I was living, during my  
6 remaining time in Guinea, to pay for my travel as a minister,  
7 as I started paying out of my own pocket when I had the money.  
8 When I ran out of money, I borrowed money. I used that money  
9 that I borrowed to pay for that. So my travel as a minister,  
10 sometimes the cost of hotels from fellow ministers traveling  
11 with me that I would pay for and my personal travel and my  
12 family travel was included in that. All my family and living  
13 expenses was, were paid for by that money. That's the purpose  
14 of the loan.

15 Q. Why were you paying for travel expenses related to your  
16 work in the government of Guinea?

17 A. Because, for the same reason I chose not to take a salary,  
18 I chose to house myself, pay for my own travels. I even, at  
19 some point when budget was tight, covered some of the expenses  
20 of the ministry, of my cabinet at the ministry itself.

21 Q. Do you recall being asked some questions about certain  
22 luxuries or amenities that you were spending money on --

23 A. Yes.

24 Q. -- in 2010?

25 A. Yes.



H52Wthi4

Thiam - Redirect

1 Q. Why were you spending money on what would be considered  
2 luxuries instead of necessities?

3 A. The answer to that would depend on the category. When it's  
4 referred to hotels and restaurants and things of that sort, I  
5 stayed as a minister at hotels that ministers, on an official  
6 mission, travel to. A minister, as per the way the government  
7 functioned, would stay in a suite and not a room, because he  
8 was sometimes asked to receive foreign delegations in his suite  
9 for meetings and things of that sort, and those were hotels  
10 that I used to stay at before I, I, I was minister, some of the  
11 hotels for ten years, and I just continued going to the same  
12 hotels. As long as I was not charging the government for it, I  
13 did not see what the problem would be.

14 Q. What about expenses unrelated to just travel?

15 A. Yes.

16 Q. Why were you spending money on what would be considered  
17 luxuries instead of necessities?

18 A. I borrowed an amount large enough to maintain my standard,  
19 the standard of living I had before, and I lived the way I  
20 lived before.

21 Q. When you say before, what period of time are you  
22 discussing?

23 A. The period of time before I was a government official.

24 Q. When you were working at Merrill Lynch and UBS?

25 A. Yes. The piano I purchased was a replacement of an



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Thiam - Recross

1 existing piano. The schools I paid for were the same schools  
2 my kids had been going to before, since kindergarten, years  
3 before I was minister. It's not something that just happened  
4 because I became minister and I borrowed money.

5 Q. You were also asked some questions on cross-examination  
6 about the rumors that Sam Pa had made bribes to other  
7 government officials?

8 A. Yes.

9 Q. Did Sam Pa ever offer to bribe you?

10 A. No.

11 Q. Did you ever accept a bribe from Sam Pa or others at CIF?

12 A. No.

13 MR. GOLDSMITH: No further questions.

14 RECROSS-EXAMINATION

15 BY MR. KOBRE:

16 Q. Mr. Thiam, you testified just now that you used some of the  
17 money on luxuries because you wanted to maintain the standard  
18 of living that you had had, correct?

19 A. Correct.

20 Q. You have never earned \$8.5 million in a year, have you?

21 A. No, not in a year. No.

22 Q. Now, you also testified about, you were also asked some  
23 questions about your salary as minister of mines, correct?

24 A. Yes.

25 Q. And your testimony is that you did not take a salary while



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Thiam - Recross

1 you were -- you did not actually receive the money that was  
2 paid to you by the ministry of mines?

3 A. It was paid to me in my account, so I received it, but I  
4 did not use it. I distributed it.

5 Q. And despite that, you paid income tax on it?

6 A. Yes, because I -- the tax return -- yes.

7 Q. OK. And you also testified that tax professionals helped  
8 you to fill out your tax return?

9 A. Yes.

10 Q. You told the tax professionals that this was a loan,  
11 correct?

12 A. Yes.

13 Q. And despite the fact that you told the tax professionals  
14 that the millions of dollars you'd received was a loan, they  
15 insisted on reporting it as income, correct?

16 A. It was a joint decision because we could not document it  
17 because it was an undocumented loan, so we decided to file it  
18 as income.

19 Q. But you didn't put it down as undocumented loan; you put it  
20 down as consulting, correct?

21 A. I put it down as income, yes.

22 Q. As income from a business of consulting, correct?

23 A. I don't remember, but yes.

24 MR. KOBRE: If we could --

25 A. I'm not denying. I'm saying --



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Thiam - Recross

1 Q. OK. Well, I can refresh your recollection, I think.

2 MR. KOBRE: Could we --

3 Q. Oh, I think it's in front of you, Government Exhibit 1802.

4 A. OK.

5 Q. And I can point you to the page. Do you see a page there,  
6 it bears page No. 7 on the bottom of it, and it says profit or  
7 loss from business?

8 A. Page 7?

9 Q. But it's actually, on the bottom it's listed as page 7, but  
10 it's actually, I think, the third piece of paper. The third.

11 A. I see the third piece of paper, yes.

12 THE COURT: Ms. Laryea, why don't you approach the  
13 witness and point out the page.

14 A. OK. I have the page.

15 Q. OK. And that's what's called schedule C, correct, on the  
16 upper left-hand corner?

17 A. Yes.

18 Q. And it says profit --

19 THE COURT: Excuse me. I don't think the document is  
20 in evidence.

21 MR. KOBRE: I'm sorry. You're right. Correct, your  
22 Honor.

23 Q. Am I right, Mr. Thiam, that based on your review of this  
24 document, you reported this as money from consulting? Correct?

25 THE COURT: Just look at the document.



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Thiam - Recross

1 THE WITNESS: Yes.

2 THE COURT: Read it to yourself, put it aside, and  
3 then answer the question.

4 THE WITNESS: OK.

5 A. Yes.

6 Q. And that you had a consulting business that was located at  
7 340 East 64th Street, correct?

8 MR. GOLDSMITH: Objection.

9 THE COURT: Sustained as to form.

10 BY MR. KOBRE:

11 Q. Am I correct that you -- am I correct, sir, that you  
12 reported this as -- you reported having a business located at  
13 340 East 64th Street?

14 MR. GOLDSMITH: Objection.

15 THE COURT: Look at the document, read it to yourself,  
16 put it aside. Does it refresh your recollection?

17 A. Yes.

18 Q. Yes, you -- yes, when you reported this on your 2010 tax  
19 returns, you reported having a consulting business located at  
20 your home address, correct?

21 A. Yes.

22 Q. And you never repaid, actually paid back any of the \$8.5  
23 million you received, correct?

24 A. No.

25 MR. KOBRE: Nothing further.



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Thiam - Redirect

1 THE COURT: Any redirect?

2 MR. GOLDSMITH: Very brief.

3 REDIRECT EXAMINATION

4 BY MR. GOLDSMITH:

5 Q. You were asked some questions about whether or not you'd  
6 ever received \$8-1/2 million annual salary. Do you recall  
7 that?

8 A. Yes.

9 Q. How much were you earning on average in the years before  
10 you became the minister of mines?

11 A. From my --

12 Q. 2006 to 2008.

13 A. From all sources combined?

14 Q. All sources combined.

15 A. Depends on the year. A few million, I'd say, a year.

16 MR. GOLDSMITH: No further questions.

17 MR. KOBRE: Nothing further.

18 THE COURT: Ladies and gentlemen, we'll take our  
19 afternoon recess, lunch break. And we went a little past  
20 12:45, so come back here at 2:05. Thank you.

21 Do not discuss the case.

22 (Continued on next page)

23

24

25



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(In open court; jury not present)

THE COURT: You may step down.

(Witness excused)

THE COURT: Let's talk about our schedule this afternoon. Will the defendant be resting when we resume?

MR. GOLDSMITH: Yes.

THE COURT: And will there be a rebuttal case?

MR. KOBRE: No, your Honor.

THE COURT: So we will then move to summations. Is there any open issue that the government needs to discuss during the lunch break?

MR. KOBRE: No, your Honor.

THE COURT: Mr. Goldsmith.

MR. GOLDSMITH: No, your Honor.

THE COURT: Mr. Goldsmith, you have that one open issue.

MR. GOLDSMITH: I did have the open issue, but I was waiting for more direction from the Court. Actually, you said we were going to have a chance to look it over. I think the government is now just getting a chance to review their version of the transcript, so hopefully when we get back, we can finalize that.

THE COURT: Good. Great. I've looked at these pages, and nothing pops out to me as what I could give as an instruction, but I am happy to consider any proposed



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1 instruction that anyone has and look forward to discussing  
2 these issues with you further.

3 Let's meet back here at 2:00. That will give us five  
4 minutes. Does that sound about a right amount of time,  
5 Mr. Goldsmith?

6 MR. GOLDSMITH: Sure.

7 THE COURT: Great. Have a nice lunch.

8 (Luncheon recess)  
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1 AFTERNOON SESSION

2 1:59 p.m.

3 (In open court; jury not present)

4 THE COURT: Counsel. Mr. Goldsmith.

5 MR. GOLDSMITH: Yes, your Honor. My understanding is,  
6 having spoken with the government, that they are objecting to  
7 my request for the curative instruction on the confusion that  
8 could be related to the conflict of interest from the bank  
9 witnesses.

10 THE COURT: So can you give me a proposed instruction.

11 MR. GOLDSMITH: My proposed instruction simply is, the  
12 Court should advise the jury that the conflict of interest as  
13 discussed by the banking witnesses was not for their  
14 consideration as it relates to the elements of the crimes  
15 charged herein.

16 THE COURT: Okay. So I read the passages, including  
17 some passages in the pages around those you identified to me,  
18 and as I was thinking through this issue, I thought, what could  
19 I say that would be accurate and helpful? And I couldn't come  
20 up with anything. And I don't think this -- and I know you  
21 tried to be careful in constructing your proposal. I don't  
22 think this is accurate or helpful. The conflict of interest  
23 laws and indeed the whole Know Your Client series of  
24 regulations or practices and the suspicious activity report  
25 system, which the jury hasn't really even heard about, is all



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1 designed to protect the integrity of the banking system in part  
2 from just the kind of activity that the government is alleging  
3 occurred here. And so these are extraordinarily connected and  
4 relevant, asking how you are employed and what is your source  
5 of money, particularly when you are a, as the defendant has  
6 described himself and others have described him, a PEP, P-E-P,  
7 is at heart, among other things, a protection against corrupt  
8 money flowing through the banking system and money laundering  
9 flowing through the banking system, and American bank  
10 regulations are designed to help protect our institutions from  
11 corrupt money. Again, in part. And so you can't really  
12 isolate the series of questions the bank was asking of the  
13 defendant when he was opening accounts and doing big-ticket  
14 item transfers through accounts from the money laundering  
15 charge that is at the core of this case or the bribery laws of  
16 Guinea. And indeed the defendant admitted on the stand several  
17 things that underscore this relationship and connection. So I  
18 couldn't come up with a charge that would correctly caution  
19 against any improper use of the conflict of interest testimony,  
20 and I don't think this does it either. And in fact I know this  
21 doesn't do it. It is for their consideration, that is, the  
22 jury's consideration, as it relates to the charged crimes.  
23 That is precisely why it is relevant.

24 And I looked again and thought about my jury charge  
25 with respect to the elements of the crime, the two violations



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1 of federal law, US law, and my charges with respect to Articles  
2 192 and 194 of the Guinean bribery laws. I don't think there  
3 can be any confusion about the various elements and that simply  
4 having a conflict of interest or disclosing or hiding a  
5 conflict of interest does not by itself make someone violate  
6 the Guinean laws or either the US statute. So I'm going to  
7 decline to charge this.

8 Let me look, counsel, real quickly at the charge  
9 pages 25 and 26, and that has to do with the apparent  
10 inconsistency between testimony offered at this trial and  
11 previous statements made by the witness.

12 I don't think we need this paragraph. Does anyone  
13 think we do?

14 MR. KOBRE: No, your Honor.

15 MR. GOLDSMITH: No, your Honor.

16 THE COURT: Okay. So that's coming out.

17 How long will the government's opening summation be?

18 MR. DiMASE: Your Honor, I'd estimate approximately 45  
19 minutes to an hour.

20 THE COURT: And the defense summation?

21 MR. GOLDSMITH: I would estimate about 45 minutes.

22 THE COURT: Great. Thanks.

23 Ms. Rojas must be checking on the jury. We'll just  
24 wait for a minute.

25 And Mr. DiMase, is the podium where you want it?



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1 MR. DiMASE: I may move it a bit to the right, if  
2 that's all right.

3 THE COURT: Why don't you do that now.

4 MR. DiMASE: I just don't know how far it will go with  
5 the monitor here.

6 MR. KOBRE: Your Honor, if I might?

7 THE COURT: Yes.

8 MR. KOBRE: I raised briefly with Ms. Rojas, I'll be  
9 giving the rebuttal summation, and if it's okay with the Court,  
10 we would just move the podium to the side and I would deliver  
11 my rebuttal from this table here.

12 THE COURT: That's just fine. And Mr. Goldsmith, you  
13 can deliver your summation from whatever point in this  
14 courtroom you'd like --

15 MR. GOLDSMITH: Thank you.

16 THE COURT: -- with or without a podium. Your choice.

17 MR. DiMASE: Your Honor, would it be all right if I  
18 move this table here and put the screen on the table?

19 THE COURT: Sure.

20 MR. DiMASE: Okay. Thank you.

21 THE COURT: The jury is ready. Bring in the jury.

22 (Continued on next page)  
23  
24  
25



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Summation - Mr. DiMase

1 (Jury present)

2 THE COURT: So, Mr. Goldsmith.

3 MR. GOLDSMITH: Yes, your Honor. Defense rests at  
4 this time.

5 THE COURT: So ladies and gentlemen, you have the  
6 entire evidentiary record. All of the evidence that is being  
7 presented at this trial for your consideration during your  
8 deliberations has already been provided to you. During your  
9 deliberations, many of the documents, really all of the  
10 documents that have been received into evidence, will be  
11 provided to you in the jury room for your consideration. I'll  
12 give you more detailed instructions about all these matters  
13 later.

14 At this point in the trial we move to the attorneys'  
15 summations, or closing arguments. What they have to say is not  
16 evidence, but I know you will give them your full attention.  
17 This is their opportunity to speak to you and describe to you  
18 what they believe the evidence has shown, to point your  
19 attention to what they think are the most critical parts of the  
20 evidentiary record for you to consider during your  
21 deliberations. It's a chance for them to suggest to you that  
22 you can draw certain inferences from one piece of evidence or  
23 several pieces of evidence and make a conclusion from putting  
24 those pieces of evidence together. So obviously this is an  
25 important part of the trial as well. If anything a lawyer says



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Summation - Mr. DiMase

1 is different from your recollection of what the evidence  
2 showed, remember, what they say is not evidence, and it is your  
3 recollection of the evidence that will control.

4 Counsel.

5 MR. DiMASE: Thank you, your Honor.

6 Ladies and gentlemen, in 2009, the defendant, Mahmoud  
7 Thiam, this man, returned to his home country of Guinea, one of  
8 the poorest countries in the world, to serve as minister of  
9 mines. It was a position of great power in that country. And  
10 the defendant had the opportunity to effect positive change, to  
11 help the citizens of Guinea, but greed is a powerful force.  
12 Greed led the defendant to abuse that position for his own  
13 benefit. Greed led him to take \$8.5 million in bribes, in  
14 exchange for helping those Chinese companies win the exclusive  
15 right to mine Guinea's most valuable resources. And we are  
16 here in this courtroom today because the defendant took that  
17 money and he laundered that money right back here into New York  
18 to spend it on himself and to spend it on his family.

19 Let me just briefly talk about what I expect to speak  
20 with you about today. First I want to cover a little bit of  
21 the background that you heard during the course of this trial,  
22 about Guinea and the defendant, then I want to briefly discuss  
23 with you the charges that you'll be tasked with analyzing when  
24 you go back to the jury room to deliberate, and finally, and  
25 most importantly, I want to take you through the evidence that



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Summation - Mr. DiMase

1 proves those two counts beyond a reasonable doubt. And I won't  
2 be, I should caution, going through every piece of evidence.  
3 This is a trial of over a week, and I'm not going to spend  
4 another week of your time going through every detail, but I'd  
5 like to cover the key facts.

6 So what do we know about the defendant? Well, you may  
7 recognize this picture, by the way, from Stacey Hayes'  
8 testimony. The defendant was the minister of mines, and that  
9 was an incredibly important position in Guinea. You heard that  
10 from both Mr. Camara and Mr. Sande. And that's because of the  
11 critical importance of the mining sector to that country. Both  
12 of those witnesses, and the defendant himself during his  
13 testimony, noted the incredible mineral wealth of the country  
14 of Guinea and the value of the resources that it has. And as  
15 you heard from many witnesses during this case, it was the  
16 defendant's position, the minister of mines, that oversaw the  
17 mining sector in the country of Guinea worth literally hundreds  
18 of billions of dollars.

19 On the other hand, you heard about the financial  
20 condition of the country of Guinea. It is a poor country. You  
21 heard Mr. Sande talking to you about how people live there on a  
22 dollar to \$2 a day. So very wealthy from a mineral perspective  
23 but, on a day-to-day basis for its citizens, a poor country.

24 And what did the defendant do when he took on this  
25 position of minister of mines? He used it to enrich himself.



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Summation - Mr. DiMase

1           So let's talk just for a moment about the general  
2 overview of the defendant's scheme. He received \$8.5 million  
3 in bribe payments from these two Chinese companies, CIF and  
4 China Sonangol. He helped those two companies with a major  
5 deal, and we'll talk about a number of the different official  
6 acts that he performed in connection with that deal.

7           The ultimate agreements that he helped to negotiate  
8 and work on with the Chinese company granted exclusive and  
9 valuable rights to mining in Guinea. And as we've seen  
10 throughout this trial, the defendant wired that bribe money  
11 back into New York to fund his lifestyle, and he also hid some  
12 of that money in a very complicated real estate transaction  
13 involving Dutchess County, and we'll come back to that as well.

14           Before we move on to the charges, I would point out  
15 here the true irony of the defendant's claim during his  
16 testimony at this trial that he wouldn't take money from his  
17 own government -- the government that he was working for and  
18 supposed to act as a fair and impartial arbiter, a fair and  
19 impartial decision maker for, yet he was willing to take money  
20 from Sam Pa and other executives of this Chinese conglomerate  
21 that he was working on a deal with as part of the Guinean  
22 government.

23           Let's turn to the charges in this case. You'll hear  
24 at the end of both of our summations the judge's instructions  
25 on the law, and you have to follow those instructions, and you



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Summation - Mr. DiMase

1 should listen to them carefully. But what I'd like to do now  
2 is just briefly summarize what I expect Judge Cote will  
3 instruct you to help you frame the evidence that you heard in  
4 this trial.

5 THE COURT: I think we can skip this part.

6 MR. DiMASE: Okay. Let's talk about what's not in  
7 dispute when it comes to the elements.

8 You're going to hear that one of the elements requires  
9 proof of transfers in excess of \$10,000. That's Count One.  
10 And you heard many, many transactions. You heard about many  
11 transactions involving \$10,000 or more.

12 You're also going to hear that there has to be some  
13 interstate or foreign commerce element to the transactions, and  
14 I expect that you'll hear from Judge Cote that merely sending a  
15 wire from one country into another is sufficient to meet that  
16 requirement, and that includes, in particular here in the  
17 United States, a wire coming from a foreign country into the  
18 United States. There is no dispute here that there were many  
19 wires of that kind.

20 And finally, there is no dispute that that money was  
21 ultimately sent here into New York. There were many, many  
22 transactions, again, that you saw that involved New York, and  
23 this was raised during the cross-examination this afternoon,  
24 but here is the Steinway & Sons receipt, or I should say  
25 invoice for about \$47,000 for a grand piano that Mr. Thiam



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Summation - Mr. DiMase

1 bought using the bribe proceeds in this case, and it's an  
2 example of a wire, because he wired the money from the Hong  
3 Kong account, where he received the money, into a bank account  
4 in New York to direct it to Steinway. This is just one of many  
5 examples, but it demonstrates the lack of any dispute over  
6 those issues.

7 And also, you're going to hear that there is a  
8 requirement that for one of the two counts, that the defendant  
9 is a US person. Very simply, that means a US citizen.

10 THE COURT: Counsel, could you just not give the law  
11 and I'll do that, and just describe the facts.

12 MR. DiMASE: Very good, your Honor.

13 You obviously heard testimony during the trial that  
14 Mr. Thiam, the defendant, is a US citizen and that many, many  
15 transactions were directed into the United States.

16 So what's left? Basically the issues that are in  
17 dispute in this trial are whether the money that was paid to  
18 Mr. Thiam was a bribe and whether that transaction that  
19 occurred with respect to the house was meant to conceal the  
20 source of the funds. Those are really the only two issues in  
21 dispute in this case.

22 How do you know that the money was a bribe? Well, you  
23 have to look to Guinean bribery laws, and the evidence  
24 establishes in this case that the defendant violated those  
25 laws. And essentially, without getting into the detail of the



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Summation - Mr. DiMase

1 law, there is a law that criminalizes giving a bribe in  
2 exchange for performing an act of an official and there's a law  
3 against taking money in exchange for performing an act. So  
4 exactly the same sorts of bribery --

5 THE COURT: Mr. DiMase, I'm just going to ask you  
6 again just to focus on the facts.

7 MR. DiMASE: Yes, your Honor.

8 So how do you know that this was in fact a bribe? I'm  
9 going to take you through some of the evidence in detail, but  
10 here's the bottom line. It's very simple. It's a one plus one  
11 equals two type of calculation. One, the defendant was a key  
12 player in this major deal with CIF and China Sonangol as the  
13 minister of mines, and two, the defendant received \$8.5 million  
14 from the other party in that deal, CIF and China Sonangol. It  
15 was a bribe, plain and simple.

16 But let's get into the details. Let's get into what  
17 makes very clear that this money was paid in exchange for acts  
18 that the defendant took, and let's start with what the  
19 defendant did, what the defendant did as part of these  
20 negotiations and work on the deal.

21 First of all, you heard testimony in this case that he  
22 advocated for the deal, and this is a clip here on your screen  
23 from Mr. Camara, who talked about Mr. Thiam in those early  
24 meetings discussing the various agreements, standing up and  
25 making statements in support of pursuing the deal with China



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Summation - Mr. DiMase

1 Sonangol and CIF.

2 And you also heard testimony about how Mr. Thiam was  
3 on the committee to negotiate with the Chinese, and you heard  
4 that there were three members of that committee -- Mr. Sande  
5 told you that -- but essentially the only two people who did  
6 the work of negotiating with the Chinese were Mr. Barry and  
7 Mr. Thiam. And you actually heard testimony today that  
8 Mr. Thiam, when he went to Singapore, the defendant, that first  
9 time, he was alone. He was working directly with his  
10 counterparts on the Chinese side of that deal, without  
11 Mr. Barry there, the person who he claims is really the leader,  
12 the top guy in these negotiations. He was the one sending  
13 emails, copying no one else back to Guinea when he was there  
14 working with them, and the defendant said himself in a  
15 postarrest statement that he was one of the two main guys on  
16 the deal. Why don't we listen to that.

17 (Video played)

18 MR. DiMASE: He was one of two main guys, the  
19 defendant said. And he told you himself about some of the  
20 things that he did as one of those two main guys going to  
21 Singapore, negotiating the deal, and so on.

22 There's also evidence in this case that he worked to  
23 make this agreement with CIF happen. Even if you don't  
24 believe -- and I want to come back to this in a minute -- that  
25 the deal necessarily got worse for Guinea in that second master



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Summation - Mr. DiMase

1 agreement, and I would submit to you that it did, they lost  
2 10 percent of the holding company in the deal that Mr. Thiam  
3 negotiated in Singapore. But even if there is some explanation  
4 for how it wasn't so bad, he made the deal possible. He's the  
5 one who took the Chinese suggestion that that percentage was  
6 not going to work and he crafted an email, he sent it back to  
7 the prime minister, and he said, look, the Chinese aren't  
8 buying this 25 percent deal, they want us to take only 15, and  
9 I think we should do that and here's the reasons why. This is  
10 Mr. Thiam, the defendant, facilitating this deal with China  
11 Sonangol and CIF that ultimately leads to the shareholders  
12 agreement. It is one of many, many acts that Mr. Thiam took in  
13 the course of his negotiations on this deal.

14 And turning back to whether or not the deal changed or  
15 somehow got better or worse for Guinea, I think it's critical  
16 to look at the provisions of the agreement that deal with the  
17 purpose of the agreement. The defendant, during his testimony  
18 before you, really tried to distance himself from the second  
19 master agreement, and this is why. Because it did benefit the  
20 Chinese company and he does not want to attach himself to this  
21 agreement. He admits being there in Singapore. He admits  
22 sending emails back to clarify at different points of the deal,  
23 negotiating with the Chinese, but as far as drafting it, being  
24 there when it's signed, he doesn't want to admit to that. And  
25 here we have a piece of that agreement. The first master



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Summation - Mr. DiMase

1 agreement, Government Exhibit 402-T, on the top, discussing the  
2 sectors, and the bottom, the second master agreement, 406,  
3 discussing the sectors that were negotiated in Singapore.

4 It makes no sense to conclude that Mr. Thiam was not  
5 heavily involved in the second master agreement. The second  
6 master agreement specifically addresses mining. That is the  
7 big addition to this language, and Mr. Thiam is the minister of  
8 mines there in Singapore on the ground, negotiating the  
9 agreement.

10 And what do you know about the ultimate agreement?  
11 Well, you know it granted invaluable rights to CIF and China  
12 Sonangol. And the language is clear. The language is quite  
13 clear. Exclusive rights to mining operations and the creation  
14 of a national mining council which would take profits from all  
15 mining operations, past and present, in Guinea. The agreement  
16 speaks for itself.

17 And what did the defendant do with the agreement?  
18 Well, again, he wants to distance himself from this to some  
19 extent, but at the end of the day he can't, because guess whose  
20 initials are at the bottom of it? His. Among others. He  
21 initialed it, he was involved in its negotiation, he  
22 facilitated the agreement being reached with the Chinese, he  
23 went to Singapore, he advocated for the deal. These are just a  
24 small sample of the many acts he took in favor of this deal.

25 And remember, there is no requirement that he be the



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Summation - Mr. DiMase

1 only person involved, and there is testimony here in this trial  
2 that there were certainly other people involved. All that is  
3 required is that he accepted money to take an act in his  
4 official position, whatever that act may be.

5 Nor does he need to be the final decision maker. He  
6 does not need to be the one who signs the dotted line so long  
7 as he takes an act, and he clearly did so here.

8 So let's talk about the money and how the money and  
9 the way that it arrived to the defendant and how he used it  
10 shows that it was a bribe.

11 First, and pretty obviously, is the timing of the  
12 payments, and I'm going to get into each one of these things in  
13 a little bit more detail, but you know that just weeks before  
14 the signing of the shareholders agreement that first payment  
15 came in.

16 Second, the nature of the payments which were sent in  
17 a way that seems clearly designed to conceal the nature of the  
18 money. The reason for the money, which we've already talked  
19 about to some extent, but what the parties had to gain from it.

20 And finally -- not finally -- the defendant's clear  
21 and repeated lies, lies that were meant to hide the fact that  
22 this was bribe money.

23 And now, finally, the consciousness of guilt evidence;  
24 in other words, evidence that the defendant knew that he had  
25 committed this crime.



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Summation - Mr. DiMase

1 I expect that Mr. Goldsmith, as he did in his opening,  
2 is going to get up here during his summation and argue you  
3 haven't heard from a witness that said this money was a bribe,  
4 or the term *quid pro quo* has been thrown around, you know,  
5 monies in exchange for something. You don't need a witness.  
6 There is overwhelming evidence in the trial record that this  
7 money was a bribe in exchange for Mr. Thiam's work on the deal.  
8 So let's go through that evidence.

9 First, the Hong Kong account. Mr. Thiam, the  
10 defendant, opens that account on September 24, 2009, and here  
11 is the account opening information and there is the date.  
12 9/24/09. And you all know -- and we'll talk about it more in a  
13 minute -- that was the day before the first \$3 million arrived  
14 into the account. And you also know from the defendant's  
15 testimony and also from the records that the defendant opened  
16 it in the same building where CIF is located, and that he in  
17 fact did it in the presence of Sam Pa, the guy who the  
18 defendant knows from, quote, rumors pays out bribe money in  
19 suitcases, standing right next to him in the bank.

20 What about the timing of these payments? Well, he  
21 opens the account on September 24<sup>th</sup> -- and by the way, I  
22 should just mention at this point, some of the things, a lot of  
23 what we're discussing here today is in evidence. You're  
24 welcome to take it back with you to the jury room when you  
25 deliberate. And where possible, we've included exhibit



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Summation - Mr. DiMase

1 stickers, and you're free to write that down to help you  
2 remember. This particular exhibit here is not in evidence and  
3 so you're not going to be able to bring it back into the jury  
4 room, so take a close look at it. And let's talk about it for  
5 a minute.

6 The blue boxes on the bottom represent the account  
7 opening and payments to the defendant. The sort of  
8 grayish-green boxes on the top represent the two agreements.  
9 Now we all know that earlier on there was a memorandum of  
10 understanding and there was also a first master agreement, and  
11 you heard testimony from the defendant himself that he had some  
12 involvement in those agreements, not necessarily drafting them,  
13 but he did participate in the discussions, and that is  
14 supported by Mr. Camara's testimony as well.

15 On July 18<sup>th</sup>, while he's in Singapore, the master  
16 agreement is signed, and then on September 24<sup>th</sup>, the account  
17 is opened. September 25<sup>th</sup>, Sam Pa transfers \$3 million into  
18 that account, and two weeks later the shareholders agreement is  
19 signed, initialed by the defendant. And then, as you all know,  
20 in 2010, there are a series of additional payments to the  
21 defendant that add up to another \$5½ million from executives at  
22 CIF and China Sonangol. The timing of those payments makes  
23 clear that this was a bribe. The timing is so clear that even  
24 the defendant himself, when he was speaking to the FBI during  
25 his statement after his arrest, he knew he had to lie about it.



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Summation - Mr. DiMase

1 Here's a clip from that portion of the statement.

2 (Video played)

3 MR. DiMASE: The contract was signed and done a long  
4 time ago. Well, you know, ladies and gentlemen, that's not  
5 true. The contract was signed after the first \$3 million was  
6 deposited into that account. And the reason why is because it  
7 was a bribe. And the defendant knows how damning that evidence  
8 is and that's why he can't admit to it.

9 And I would also point out that at the beginning of  
10 this clip, the defendant struggles, really struggles to answer  
11 the question, and only eventually comes to an answer at the  
12 end. It's clear that he knows how damaging this evidence is.

13 But it's not just the timing. It's also the way the  
14 payments were made. And we've seen this slide before. It's  
15 Government Exhibit 1002 in evidence. You can pretty much -- a  
16 picture is worth a thousand words in this case. You've got the  
17 Chinese conglomerate, which refers to China Sonangol and CIF,  
18 on the left making these payments to Sam Pa -- Sam Pa, Lo Fung  
19 Hung, and Xiang-Fei, and then they filter the payments along to  
20 the defendant. This is not the way that legitimate money would  
21 be passed along. It's certainly not the way -- and I'll get  
22 back to this later -- that a loan would be provided. A loan  
23 does not need to be passed from a company through three  
24 executives to an account set up for the sole purpose of  
25 receiving the money. If it were a loan, why not an arrow from



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Summation - Mr. DiMase

1 Sam Pa to an account that Mr. Thiam had in the US? It's that  
2 simple.

3 And just to briefly address something regarding a  
4 couple of the transfers, several of these transfers that were  
5 later -- in fact the last two, the two that came from the Sam  
6 Pa/Hung account in 2010, you saw evidence that they had "Loan"  
7 written in on them. Well, guess what? That was after the  
8 defendant had already experienced some problems with his bank  
9 accounts in the United States. That was after JPMorgan Chase  
10 and Remee Aring had already closed his JPMorgan account, and so  
11 he was on notice, and probably he told the folks from China  
12 Sonangol and CIF that they should be on notice. The first two  
13 payments that happened before these accounts started getting  
14 closed in September and in March, they don't have "Loan"  
15 written on them.

16 But the bottom line is, this is not a diagram showing  
17 the flow of legitimate money being provided to the defendant.  
18 This is a diagram that shows the course of a bribe.

19 So why don't we talk about the reasons for the bribe,  
20 and I don't really -- obviously, for the defendant, the reason  
21 is clear. It's money. It's a lot of money. But I do think it  
22 bears pointing out how the defendant has characterized this  
23 money versus the reality. He said the money was to feed his  
24 family. You heard that from him on the witness stand here.  
25 But you all know from seeing the exhibits in this trial that



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Summation - Mr. DiMase

1 the money was really used to fund a very lavish lifestyle.

2 And this is Government Exhibit 1001. It's just one  
3 piece of evidence that shows you that. On the left you have  
4 the payments, and on the right you have a series of very large  
5 dollar amounts going to everything from Chopard, a watch store,  
6 to interior designers and luxury apparel and Cipriani. This is  
7 not money that's being used to feed a family. This is money  
8 that's being used for luxury goods, to lead a very lavish  
9 lifestyle. That's what this money is being used for. And  
10 ultimately, this is only a tiny portion. If you add up this  
11 money here, it's probably under -- it's definitely under a  
12 million dollars. And the agent, you heard Patrick Killeen  
13 testifying about how this only was a representative sample of  
14 what he spent the money on. And in fact you heard, you  
15 actually saw some records, which I'm not going to show you  
16 today, but the Steinway transaction, the Louis Vuitton \$3,000,  
17 appeared to be some sort of attaché case that he bought with a  
18 credit card, and a three-day hotel stay that cost \$7,000.  
19 Those are the sorts of things that this money was being used  
20 for.

21 And let's turn to the other side of the equation. CIF  
22 and China Sonangol, why did they pay the bribes? The evidence  
23 is clear that what they wanted was the minister of mines, in  
24 the colloquial way, in their pocket. A guy on their side. Not  
25 just any guy; the minister of mines, the area that they cared



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Summation - Mr. DiMase

1 most about, the most lucrative sector in Guinea. They wanted  
2 exclusive access to future mining rights. They wanted a share  
3 in all mining profits. And this is a quote from Mr. Camara:  
4 "Rights for the new projects, the dividends that might come  
5 from that, and for the operational and the future projects, the  
6 commercial and taking-off rights, and the commercial rights of  
7 marketing," and here's the most important part, "it represents  
8 an incredible and enormous --" I think that was supposed to be  
9 "amount," "of rights and benefits." And this isn't coming from  
10 somebody who's uninvolved in the deal. This is one of the  
11 technical negotiators who voiced objections to this ultimate  
12 shareholders agreement. He is saying what an incredible and  
13 enormous amount of rights were granted under the agreement.

14 And it's important here to note, again, CIF and China  
15 Sonangol wanted somebody on their side, somebody powerful and  
16 somebody who could actually effect the negotiation.

17 And there is evidence in this case that there were  
18 objections raised at the governmental level to the shareholders  
19 agreement. This letter from the prime minister after the  
20 agreement was signed saying, hey, wait a minute, we had these  
21 discussions in the Council of Ministers and, you know, there's  
22 still problems. It hasn't been fixed. And you've got the  
23 testimony of Mr. Camara as well. And this is about specific  
24 conversations that Mr. Camara had, or at least things that he  
25 presented to the defendant about his concerns.



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Summation - Mr. DiMase

1 "Q. So if I have you right, you presented to  
2 Mr. Thiam the concerns about the exclusivity. Is that correct?

3 "A. Yes, we did that briefly. Yes.

4 "And the national asset company, the concerns  
5 regarding that?

6 "Yes.

7 "And you also presented a third concern, which you  
8 just mentioned now, about something relating to the way the  
9 Chinese company would receive payments?

10 "And do you remember anything that Mr. Thiam said in  
11 response to your raising these concerns with him?

12 "A. Well, when we presented those concerns, we didn't  
13 get very detailed response. It was very quick, and he only  
14 said that it would be the object of discussions at the higher  
15 level, either with the prime minister or Barry regarding these  
16 questions."

17 Ultimately, these high-level decisions involved the  
18 defendant. He was involved in negotiating, he was involved in  
19 advocating, he was involved in suggesting ways to move forward  
20 with the deal, and CIF and China Sonangol wanted him on their  
21 side, or at least not in their way, but even more on their  
22 side.

23 And you've all heard the phrase, there's no such thing  
24 as a free lunch? They had to pay for that. This is the  
25 minister of mines. I mean, this is not some low-level



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Summation - Mr. DiMase

1     functionary in Guinea. This is the minister of mines, and the  
2     amount of money that was paid is commensurate, is  
3     appropriate -- well, I don't know if appropriate is the right  
4     word -- it makes sense, given the value of the resources that  
5     this company was looking to obtain.

6             There's no such thing as a free lunch, and CIF and  
7     China Sonangol had to pay.

8             Let's talk about the defendant's lies to the bank.  
9     Lies to HSBC Hong Kong, JPMorgan Chase in New York, HSBC in New  
10    York, and the FBI interview. You heard the defendant actually  
11    testify during the trial that he lied. He admitted to lying  
12    repeatedly to these banks. And the lies, contrary to what the  
13    defendant testified, were to cover up the bribe and to get  
14    access to the bribe money.

15            How do you know? I'm going to go through some of the  
16    lies, but one reason you know is that there came a couple of  
17    times in these meetings with the bank representatives where he  
18    was ultimately forced to admit that he was the minister of  
19    mines. Stacey Hayes walked by, you know, the CNBC video, and  
20    it's hard to deny it then. But even after that's found out,  
21    even after it's clear to the bank that he is minister of mines,  
22    he keeps lying about the source of the funds. He keeps lying  
23    about where the money came from. So it's not about a concern  
24    about being a PEP or being a high-level minister with scrutiny.  
25    I mean, obviously you heard from Mr. Damle at HSBC that higher



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Summation - Mr. DiMase

1 scrutiny does come with being designated in those categories.  
2 That's sort of the point, because the banks need to know who  
3 their customers are and what the money is coming in and out of  
4 the account. But Mr. Damle said very clearly that being a PEP  
5 doesn't mean your account is shut down; just means it has  
6 enhanced scrutiny. That's it. He even said that a PEP is a  
7 subsidiary of an SCC, and the last initial, as you may remember  
8 this, is Client. I mean, that people can maintain client  
9 relationships as PEPs. And using your common sense, you know  
10 that, because you know that there are people all over the  
11 United States who hold governmental roles, and they have to be  
12 able to have bank accounts. So after hearing Mr. Damle and  
13 using your common sense, it's just not accurate that saying I'm  
14 a PEP immediately shuts down your bank account, and coming back  
15 to the facts here, that's not why the defendant lied. He lied  
16 to cover up the bribe. That's why he lied.

17 Let's talk about the different lies. He lied to Hong  
18 Kong. The first one wasn't really a lie, the French passport,  
19 but he was very careful not to use a US passport or a Guinean  
20 passport, anything that would suggest that he was a minister of  
21 mines. He uses a US home address, again, not referring at all  
22 to Guinea. He lists himself as a self-employed consultant, and  
23 he admitted on the stand that he lied about that. Obviously he  
24 was the minister of mines at the time. He said that he was  
25 making \$200,000 a month. And this may not appear to be really



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Summation - Mr. DiMase

1 too important on first blush, but there is a reason behind it.  
2 There is a rationale, and here it is. The bank was going to be  
3 looking at money that came into his account to see if it made  
4 sense. He knows he's getting a lot of money from China  
5 Sonangol and CIS, a lot of money, and what's the easiest way to  
6 make all that money make sense? You tell them when you're  
7 opening up your account you're earning a lot, \$200,000 a month,  
8 over a million a year. Well over a million a year. Over  
9 2 million a year, actually. So again, there's no mention of  
10 Guinea, no mention of being the minister of mines, and during  
11 his testimony he said he opened his account here because of  
12 sanctions because he didn't have other places to bank, and he  
13 needed an account. How do you know that's not true?

14 And by the way, I should pause for a moment here and  
15 say something that's very important. The defendant did not  
16 have to put on a case. The defendant did not have to testify.  
17 He has a right not to testify. He did not have to call other  
18 witnesses. The burden is and always remains on the government,  
19 this table here, to prove the defendant's guilt beyond a  
20 reasonable doubt. That said, when a defendant or a defense  
21 witness testifies, it's your obligation to analyze that  
22 testimony and decide whether it's credible or not, whether you  
23 can believe it. And so you've heard me a number of times talk  
24 about his testimony today, and that's something that you should  
25 do. Apply common sense and all of the other things that you



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Summation - Mr. DiMase

1 would normally use to evaluate a witness' testimony in deciding  
2 whether the witnesses, including the defendant, were truthful.  
3 And one thing that you'll notice is oftentimes when the  
4 defendant was uncomfortable answering a question, he moved back  
5 from the witness stand, he became quiet. Those are things you  
6 can consider, his demeanor, the way he answers questions, but  
7 most importantly really is your common sense and comparing what  
8 he says to the rest of the evidence in the case.

9 So let's compare the evidence about the Hong Kong  
10 account to what he said. He said, I need an account because  
11 sanctions were imposed and I didn't have other places to bank.  
12 But throughout 2009 and 2010, but for about \$5,000, the only  
13 money that came into that account was the bribe money from the  
14 Chinese companies. That's it. I mean, I'll come to a couple  
15 of the pie charts you saw during the trial, but that's it.  
16 This wasn't a regular banking account that he needed to handle  
17 his financial affairs; this was an offshore account set up  
18 outside of the United States and Guinea for the purpose of  
19 receiving illegal bribes. That's what it was.

20 Here's one of those pie charts. And the date on it is  
21 important, because the date is the day, approximately the day  
22 that he was in touch with Remeé Aring. March 26, 2010. About  
23 99.9 percent of the money in the account is from the Chinese  
24 executives. And what does he say? He says, several sources of  
25 income, business transactions and prior years' consulting jobs.



Gh52thi5

Summation - Mr. DiMase

1 Over the past ten years. Income from business with my partner,  
2 Baker Al-Sadi. And again, he says again in the 3/26 email the  
3 funds were derived from business transactions with Mr. Al-Sadi.  
4 You heard from Special Agent Killeen. He looked at all these  
5 records. At this time not a dime of money, not a dime, was  
6 from Baker Al-Sadi.

7 And then there's this email. He's communicating, you  
8 remember, with Baker Al-Sadi right around this time, trying to  
9 get guidance on how he can best respond to the JPMorgan Chase  
10 folks. And he sends him this email, exhibit. Doesn't include  
11 the answers that he sent to Mr. Al-Sadi, but after the answers,  
12 there's a response, "Looks fine if they don't dig too deep."  
13 And Mr. Thiam says, "Cool. How do I treat your answers, just  
14 attach them?" And Mr. Al-Sadi responds, "Buy some time by  
15 saying you asked me to send" the answers. These are not the  
16 communications of somebody who is getting legitimate money into  
17 their account. I mean, the defendant has admitted to lying to  
18 JPMC, but not only that, he's looping in other people to help  
19 him explain the source of the funds, the source of the funds,  
20 after JPMorgan Chase has already spoken to his wife and learned  
21 that he was minister of mines. This was not about the PEP  
22 status, this was about the source of the money.

23 Now you remember it was HSBC where he lied about his  
24 position. He admitted again here in court that he lied; he did  
25 not disclose being the minister of mines. It took a CNBC



Gh52thi5

Summation - Mr. DiMase

1 interview for anyone to find out there. Just one thing that is  
2 probably obvious but you might not have focused on. He went  
3 into HSBC and lied after he'd already lied to JPMorgan Chase  
4 and they'd closed his account. He'd already been through this  
5 process once. Now he's coming to a second bank and he's lying  
6 to them, and he doesn't even tell them the same story. He says  
7 the sale of land in Africa and prior employment income. That's  
8 what he said.

9 We're going to get to the loan story in a minute or  
10 two, but all of these lies to the banks beg the question: If  
11 it really were a loan, why didn't he just tell them it was a  
12 loan? That wouldn't have implicated him as the minister of  
13 mines. A personal loan. It's because he wasn't lying to the  
14 banks to hide who he was; he was lying to the banks to hide the  
15 source of the money. And he gave them his date of birth, his  
16 name and so on. It's the source of the funds that he didn't  
17 want people to find out about. And you know what? Ultimately  
18 it was the source of funds, according to Ms. Aring, that led to  
19 the closure of his account, not the fact that he was the  
20 minister of mines. They couldn't explain where that money was  
21 coming from and they thought his answers didn't make sense.  
22 And you know what? They didn't, because they were lies. He  
23 admitted it on the stand. They were doing their job. And they  
24 found the answers to be unacceptable and closed the account.

25 So let's talk about HSBC New York, July 20, 2010.



Gh52thi5

Summation - Mr. DiMase

1 Another pie chart, approximately around the time of his  
2 conversations -- you all remember that he spoke to Mr. Damle on  
3 the day before. 99.93 percent of all the deposits that had  
4 been made into the account at that point had come from the  
5 three executives, .1 percent from other. And, again, this is  
6 from an email, but there are also handwritten notes which you  
7 can look at.

8 They're in evidence. Government Exhibit 102-F is the  
9 email, source of funds, saving from past employment and  
10 proceeds of sale of land in Africa, and he actually even went a  
11 lot further and said, within the last three to four months. If  
12 you look at the notes, you'll see that as well. So he's lying,  
13 again and again, telling different stories about where this  
14 money came from, and it's all to cover up the bribe.

15 So let's turn to the big issue. The defendant  
16 testified that he lied repeatedly to others, in particular the  
17 banks, about where this money came from, but he wants you to  
18 believe that you can trust him that it was a loan. That's  
19 basically what it is. It's not a loan. Let's listen to what  
20 the defendant actually said in his statement to the FBI, which  
21 largely mirrors what he said in court.

22 (Video played)

23 MR. DiMASE: So let's recap. He said there was no  
24 interest rate, no repayment date, no documentation, he never  
25 paid it back, \$8½ million. What do you know about real loans?



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Summation - Mr. DiMase

1 Real loans have interest rates. People don't give away money  
2 for free. Not \$8.5 million especially. Real loans have  
3 repayment dates because people want their money back, and they  
4 want it back in a timely fashion. Real loans are documented.  
5 People don't just go around giving each other \$8½ million  
6 without writing something down. That is a tremendous amount of  
7 money to just hand over without something in writing. And real  
8 loans have to be paid back. An \$8.5 million loan that isn't  
9 paid back is an \$8.5 million payment. This one, even the  
10 defendant told you, never paid a penny of this money back.

11 The Chinese company and Sam Pa, if you believe the  
12 defendant, just didn't mind not getting that \$8½ million back.

13 Real loans aren't filtered from a company through  
14 executives in this manner. We've already talked about this so  
15 I'm not going to dwell on it, but if this were a loan, you  
16 wouldn't need ten arrows. One would suffice. They did it this  
17 way because it was a bribe.

18 (Video played)

19 MR. DiMASE: So he met Sam Pa -- and I think the  
20 testimony in court was pretty clear about this as well -- late  
21 spring, early summer. No real dispute about when he first met  
22 with Sam Pa, in person.

23 Let's talk about real loans, because he says he got  
24 \$3 million in September and a bunch more later from Sam Pa.  
25 Real loans come from banks, and maybe sometimes they come from



Gh52thi5

Summation - Mr. DiMase

1 your friends and family. Maybe. \$8.5 million is a lot of  
2 money, but if you have a family member that can pay that  
3 amount, maybe they'd be willing to loan it to you.

4 (Continued on next page)

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H52Wthi6

Summation - Mr. DiMase

1 MR. DiMASE: Loans of this sort do not come from  
2 people you've never met before or have known for a couple of  
3 months. It just doesn't add up. Applying your common sense to  
4 this idea that he would take, that Sam Pa would be willing to  
5 give this much money to the defendant, not knowing him really  
6 at all, doesn't make sense. It doesn't add up. And actually,  
7 the defendant provided a great counterexample during his  
8 testimony. He talked about another person who did loan him  
9 money from time to time. He said that person was a good  
10 friend. They had known each other for a long time and they had  
11 loaned each other back and forth for ten years. Maybe, maybe  
12 that would make sense. This doesn't.

13 And what else does he know about Sam Pa? He doesn't  
14 know him well, but what he does know about him is this:

15 (Video played)

16 MR. DiMASE: So the defendant wants you to believe  
17 that he got an \$8-1/2 million loan from the guy on the other  
18 side of a transaction that granted massive rights to Guinea,  
19 who he didn't know well, and what he did know was he bribed  
20 people. It doesn't add up.

21 I don't think that after reviewing all this  
22 evidence -- withdrawn.

23 The evidence doesn't support that this was a loan.  
24 The evidence clearly supports that this was a bribe. But even  
25 if it were a loan, it would still be a bribe. A six-year,



H52Wthi6

Summation - Mr. DiMase

1 interest-free loan of \$8-1/2 million, giving something of value  
2 in exchange for an act, that's bribery. An \$8-1/2 million  
3 loan, with no interest, for six years, by the way, that he  
4 never paid back, but even if he did pay it back, that's a giant  
5 benefit. Imagine all the interest that would have to otherwise  
6 be paid on that money over those years. That's just as much a  
7 benefit as if it was a straight-up payment with no expectation  
8 of repayment.

9 Let's talk about consciousness of guilt, which is  
10 really just a fancy way of saying "knowing that you're guilty."  
11 You heard at the end of Agent Killeen's testimony about text  
12 messages that were found on the defendant's cell phone. That  
13 cell phone was in his house when he was arrested, and there  
14 were a couple of really important messages on that phone:  
15 "Hahahahaha," says the other party to the conversation; "At  
16 least Sam Pa's locked up, so you are fine." And the defendant  
17 responds: He predicted I would be locked up. Life has its  
18 twists."

19 "He," it's very clear from the context of this  
20 conversation, is Sam Pa, and it's clear from this message that  
21 the defendant knew he was guilty of taking a bribe from Sam Pa.  
22 Sam Pa "predicted I would be locked up. Life has its twists,"  
23 the defendant admitting his guilty knowledge about his  
24 involvement in these events in 2009.

25 Before I address the last issue, so we've taken a lot



H52Wthi6

Summation - Mr. DiMase

1 of time to really focus on the bribe and whether it was a  
2 bribe, and I submit to you the evidence clearly establishes,  
3 beyond a reasonable doubt, that that \$8.5 million, for all the  
4 reasons that we've talked about, and just basic common sense,  
5 was a bribe.

6 The second issue that we talked about being disputed  
7 was the concealment, hiding some of the bribe proceeds. So the  
8 sending there's, sending the money that was derived from crime,  
9 and then there's a second count that alleges concealing, hiding  
10 some of the money.

11 Before we talk about the defendant's convoluted  
12 explanation of what the evidence shows, I want to point out one  
13 more thing about the defendant's testimony, one place where he  
14 himself, in front of you, was clearly caught in a lie, and that  
15 was on the tax -- I'm sorry, on the payment of his government  
16 salary. He said, clear as day -- you can check the  
17 transcript -- didn't receive any salary, turned it down, didn't  
18 need it, again, going back to really what I think is the  
19 central irony of his testimony: that he claims that he wanted  
20 to remain independent by not taking money from his own  
21 government, but he would take money from a Chinese company  
22 executive who wanted mining rights in Guinea. But the point  
23 is, on cross-examination, when confronted with evidence of his  
24 tax return, showing that he reported earning income, earning a  
25 government salary from Guinea, he changed his story. All of a



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Summation - Mr. DiMase

1 sudden now he received it but he didn't take it or he took it  
2 and he didn't receive it. I'm not really clear on what the  
3 difference between those two things is, and that he paid taxes  
4 on it, even though he didn't, even though he didn't use it  
5 himself or earn it, a clear example of the defendant lying,  
6 right in front of you, from the witness stand. And that should  
7 color your view of his testimony and his statements about the  
8 source of this money and about the issue of where the  
9 money came -- sorry, about the reality of this transaction  
10 involving the Dutchess County house.

11 So let's just talk about that quickly. Another fancy  
12 pie chart telling you that as of November 20, which is around  
13 the time that he bought the house, or that the house was  
14 bought, 99.3 percent of the money in the account was from the  
15 Chinese executives. And as you know, the payment that was made  
16 that is at issue with this house is the \$375,000 payment. So  
17 you know that much, if not the vast majority, of the payment  
18 had to be funded by the money that originated from the Chinese  
19 company. There's no way you can fund a \$375,000 wire with the  
20 55,000 or so in other deposits that were in the account. So he  
21 funded this wire with money in the account.

22 All right. Here is the graphic that you saw,  
23 Government Exhibit 1005, showing how the money got from the  
24 defendant to the house. So it went from him, in his Hong Kong  
25 account, to his Pacific Inter-Link account in Malaysia. The



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Summation - Mr. DiMase

1 defendant says that that was a company that the G.S. Holdings  
2 company, a soap company, in Mozambique would buy some sort of  
3 petroleum used in making soap. And so you have an email from  
4 the folks at G.S. Holdings saying:

5 Hey, we're going to send this money down to the house  
6 here, to McGregor, and he'll use it to pay the down payment,  
7 essentially. You need to send the money, the same money, to  
8 Pacific Inter-Link. You know, you cover our debt at Pacific  
9 Inter-Link, and we'll shoot some money over to the attorney and  
10 it will go down to the house.

11 So in order for the defendant to get this money to the  
12 house, he sent money, essentially, through two different  
13 countries. He didn't take care of this transaction between;  
14 that was a transaction handled internally at G.S. Holdings, and  
15 you see the ledger here that describes the \$375,000 credit that  
16 came in through the Pacific Inter-Link account and the \$375,000  
17 debit that was related to the payment to McGregor. And then,  
18 of course, McGregor closes on the property in Dutchess County,  
19 using that \$375,000 as a deposit, and the company nominally, in  
20 name, that owns the house at this point is SSN.

21 By the way, there was substantial testimony in this  
22 case about the defendant using that house and basically owning  
23 that house. I mean, he is going there. He is spending  
24 weekends there with his family. He is hiring contractors. He  
25 is hiring designers. He is buying materials. The house, even



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Summation - Mr. DiMase

1 after it's moved to AMER, which is by the way, a company which  
2 he has said he's the chairman of, when it's switched to that  
3 company, it's still under his home address in New York. You  
4 know, in name, this house is under SSN. SSNL, I guess we  
5 should say. But it was really the house of the Thiams.

6 But the process of sending that \$375,000 was intended  
7 to conceal that portion of the bribe money. There is no other  
8 reason to send money through such a complicated chain just to  
9 pay a down payment on a house, to Malaysia, to Mozambique, to  
10 the seller's attorney, and then to the house. That is evidence  
11 of the defendant's desire to hide the source of this money,  
12 where it came from, the same reason that he lied to the banks,  
13 the same reason he wants you to believe it's a loan: to conceal  
14 its illegal origin.

15 Let me show you a graphic of what it would look like  
16 if it wasn't money laundering, if it wasn't concealing the  
17 source of the proceeds of a crime. That's what it would look  
18 like. It's not rocket science, one arrow from him to the  
19 house. He'd sent money to the United States before. This was  
20 a needlessly complicated transaction unless it was intended to  
21 hide the proceeds of a crime; here, the bribe.

22 Ladies and gentlemen, the evidence in the case has  
23 proven that the defendant abused his position of power and took  
24 bribes. He abused his office, an office he was entrusted to  
25 make fair, impartial decisions on behalf of the people of



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Summation - Mr. Goldsmith

1 Guinea, and he deprived the citizens of that country of a fair  
2 and neutral decision maker of matters, on matters of critical  
3 national importance, matters involving one of the most  
4 important sectors, if not the most important sector, in their  
5 country. He took that money. He laundered it into the United  
6 States, and he spent it. He spent it with abandon. He spent  
7 it in ways to hide where it came from. He used it to support a  
8 lavish lifestyle for himself and his family. And today, you,  
9 the jury, can finally hold the defendant responsible for those  
10 crimes.

11 As you retire to the jury room to deliberate, we ask  
12 that you decide this case on the principles that Judge Cote  
13 will explain to you, without fear, without favor, without  
14 prejudice, without sympathy. Decide this case on the evidence  
15 you've seen and heard in this trial. Bring your common sense,  
16 the same common sense you use every single day, to bear on that  
17 evidence: the bank records; the agreements; the many other  
18 exhibits you saw; the testimony of the witnesses; and the  
19 defendant's many lies, the very evidence which proves the  
20 defendant guilty of the two crimes with which he's charged,  
21 beyond a reasonable doubt. And after considering that  
22 evidence, I ask you to return the only verdict that is  
23 consistent with what you've heard during this trial, and that  
24 is a verdict of guilty on both counts.

25 THE COURT: Ladies and gentlemen, we'll take our



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Summation - Mr. Goldsmith

1 midafternoon recess. Let Ms. Rojas know when you're ready to  
2 resume.

3 (Jury not present)

4 THE COURT: Mr. Goldsmith, feel free to arrange this  
5 furniture any way you'd like.

6 MR. GOLDSMITH: Thank you.

7 THE COURT: And I'm sure the government will assist  
8 you with some of that equipment that is theirs. Thanks.

9 (Recess)

10 THE COURT: Bring in the jury.

11 (Jury present)

12 THE COURT: Mr. Goldsmith.

13 MR. GOLDSMITH: Thank you.

14 There's no such thing as a free lunch and one plus one  
15 is two. Years of investigating around the world by the awesome  
16 and all-powerful United States government, one week of trial  
17 and the best they give you is, There's no such thing as a free  
18 lunch, and a bunch of fancy, colored flow charts, not evidence.  
19 The best they gave you was a couple of cliches, because that's  
20 all they had.

21 To build a structure, you start with the foundation,  
22 the bottom. The foundation has to support the structure. It  
23 supports it so it doesn't collapse on itself. In this  
24 particular case, the government built its case. They built  
25 their foundation of a massive structure, of a massive building



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Summation - Mr. Goldsmith

1     worthy of the skyscrapers out these windows, but they built the  
2     foundation on a bunch of paper. They built thousands of pages  
3     of bank records, thousands of pages of emails. But they didn't  
4     have one of these. They didn't have a witness to put it in  
5     context, to tell you what those thousands of pages of emails  
6     and thousands of pages of bank records mean. They didn't have  
7     someone who could come in had here and tell you that the  
8     payment, the money that Mr. Thiam got from Mr. Pa was a bribe.  
9     The best that you got was one plus one is two. Here was a  
10    payment, here was a guy who was working with the government, so  
11    it must have been a bribe.

12           It was a guess. It was speculation. It was  
13    conjecture. It was the equivalent of walking down the street  
14    and seeing somebody and saying, You're hanging out with the  
15    wrong crowd, so you must have done something. That's not what  
16    happens in this courtroom. That is not what you as jurors are  
17    supposed to consider as evidence. This is not a math problem.  
18    This is not a cliché about free lunch. This is a human, who is  
19    charged in court with a crime that the government, after years  
20    of investigating, did not have conclusive evidence to provide  
21    to you, the jurors, to make a decision about whether or not he  
22    committed the crimes he was charged with.

23           Mr. Thiam, as you know, is charged with a scheme to  
24    launder bribery money, and he's charged with the actual  
25    laundering of that money. As the judge is going to instruct



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Summation - Mr. Goldsmith

1 you, with the laws and how they are to be applied, you don't  
2 get to decide guilt or innocence about things that happened in  
3 the United States, transactions of money that happened here,  
4 and whether or not Mr. Thiam tried to hide the source of those  
5 funds until you have enough evidence to have been proven beyond  
6 a reasonable doubt that the money given from Sam Pa to  
7 Mr. Thiam was a bribe. And there wasn't any evidence of that  
8 in this courtroom for the last week.

9 So what was the evidence that you saw in the case?  
10 You heard witnesses. You saw papers, not the pictures that the  
11 government drew for you, but the actual emails and the actual  
12 bank records and the actual agreements from the government of  
13 Guinea.

14 By the way, both sides in this case went into a lot of  
15 detail about all those documents back and forth from the  
16 government of Guinea, all of those agreements that went in  
17 place with China International Fund and Sonangol, the  
18 government of Guinea, getting into ridiculous details about  
19 what this paragraph means and what that paragraph means. And  
20 guess what? In every one of those agreements, it doesn't talk  
21 about the human relationship that Mr. Thiam had with Sam Pa.

22 The first witness that you heard from was Ms. Aring.  
23 She was from J.P. Morgan Chase. She talked to you about the  
24 investigation that J.P. Morgan did into Mr. Thiam's bank  
25 account when you saw some transactions. She talked about what



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Summation - Mr. Goldsmith

1 their investigation led to and what Mr. Thiam's responses were.  
2 She didn't talk to you at all about Mr. Thiam and Sam Pa,  
3 didn't talk to you at all or provide you with any evidence  
4 about whether there was a bribe, and didn't tell -- and could  
5 not tell you -- whether or not Mr. Thiam lied to a bank for the  
6 sole purpose of hiding the fact that he had money from an  
7 illegal source.

8 The next witness that you heard, the following two  
9 witnesses, were from Guinea, from the government. They acted  
10 alongside Mr. Thiam in 2009 in the ministry. You heard from  
11 Mr. Camara, who was an adviser to the prime minister at the  
12 time. You heard from Mr. Sande, who was the minister of  
13 finance at the time. You heard a lot of testimony from  
14 Mr. Camara about governmental structure, about the coup that  
15 happened, about how there were several ministers and Mr. Thiam  
16 being one of them, the minister of mines. You heard about the  
17 minister of state. You heard about a negotiating committee,  
18 the technical committee it was called, the technical committee  
19 that was composed of several individuals that were appointed to  
20 help negotiate the deal, the deal with CIF.

21 You heard Mr. Camara tell you about President Dadis,  
22 about how he had his hand in everything, about how the public  
23 wanted to deal with CIF, about how the government was all  
24 enthusiastic about the deal with CIF. You heard about the how  
25 the fact that it was a poor country that needed cash, it wanted



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Summation - Mr. Goldsmith

1 to work with the investors from CIF to make the project happen.  
2 You heard about how President Dadis had his hands in  
3 everything. You heard about his meeting with the council of  
4 ministers, and much was made out of the fact that the technical  
5 committee had some disagreements with portions of the  
6 shareholders agreement, that they voiced their concerns to the  
7 prime minister and to Mr. Thiam, and that a day later, some of  
8 those changes weren't made. That's not a crime. It's not a  
9 bribe. It's part of the government function that they had at  
10 the time.

11 You heard Mr. Camara discuss the fact that he felt  
12 Mr. Thiam was professional, and his criticism of Mr. Thiam was  
13 that he couldn't get those last changes tweaked on that  
14 shareholders agreement. He didn't testify to you about a  
15 bribe, didn't testify to you about anything that Mr. Thiam did  
16 or didn't do on that deal with CIF that could have been  
17 construed as a bribe.

18 Mr. Sande, who was the finance minister, testified  
19 about the government at the time, what the conditions were like  
20 at the time. The country was terribly poor; it needed cash.  
21 Several witnesses, including those two gentlemen, discussed the  
22 fact that this CIF deal was there to bring cash into Guinea at  
23 the time. It was called an investment vote. Mr. Camara and  
24 Mr. Sande kept calling it an investment project, CIF investing  
25 money into Guinea and expects a return on it. That's a



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Summation - Mr. Goldsmith

1 simplified explanation of an investment, and that's what was  
2 ultimately arrived at in that shareholders agreement. But  
3 nothing but a bribe. And nothing from Mr. Sande about  
4 Mr. Thiam taking advantage of his position, like the government  
5 told you in their opening argument, like they told you about  
6 earlier this afternoon about taking advantage of the  
7 opportunity to help such a poor country. Guess what? That  
8 doesn't matter here. Doesn't matter for what happened in this  
9 courtroom.

10 I don't mean to sound harsh about it, but it's true.  
11 And for all of the massive numbers of dollars and pictures of  
12 Louis Vuitton and Chopard and the Four Seasons hotel, that  
13 doesn't matter either, because whether it's 5 billion or \$5, a  
14 bribe is a bribe is a bribe. The government didn't have  
15 someone over there, so they gave you a bunch of pictures of the  
16 Four Seasons and Chopard and asked about Cipriani, but they  
17 didn't have that.

18 Mr. Sande also talked to you about the process that he  
19 went through as being part of that subcommittee, that  
20 delegation, with CIF, going back and forth and not being able  
21 to be present during those conversations. There was that power  
22 of attorney that he had to give to Mr. Barry. What was  
23 important about that? Nothing, as it relates to a bribe.

24 What was important about it was that, as Mr. Sande  
25 told you, he didn't want to give up his right to be present



H52Wthi6

Summation - Mr. Goldsmith

1 when Guinea was contracting for massive amounts of money and  
2 giving up something of great value. He felt responsible for  
3 having been there. He wanted to make sure he was going to  
4 fulfill his role and his duty as the finance minister to be  
5 there. And when he objected to the prime minister's request  
6 and said, I'm not going to do that, he went and he met with  
7 President Dadis. And what did President Dadis do? President  
8 Dadis said, No, you're going to give it to my friend Barry and  
9 he's going to go and he's going to sign for you.

10 And that came through, not only with Sande, but also  
11 with another witness, a witness for the defense, Momo Sakho,  
12 who you heard testify about how much influence and power the  
13 president had. That's only important for one reason, because  
14 the government spent a week trying to convince you that  
15 Mr. Thiam had the authority and the power to do something, or  
16 not do something, in relation to that investment project with  
17 CIF. But to hear the witnesses, to hear Sande, to hear Camara,  
18 to hear Momo Sakho tell you about what Mr. Thiam had the power  
19 to do, or not to, puts it in perspective. President Dadis was  
20 running that deal.

21 You also heard testimony from Mr. Scardaci, the  
22 contractor, who talked about all the things that the Thiams  
23 were putting into that house up in Dutchess County, that he got  
24 paid over a million dollars for the build-doubt that happened,  
25 for the high-end plumbing and whatever the fancy technique of



H52Wthi6

Summation - Mr. Goldsmith

1 painting that supposedly got done there.

2 Did he tell you about what happened in Hong Kong seven  
3 years ago between Sam Pa and Mahmoud Thiam? No. Did he tell  
4 you about whether the owner of the property, SSNL, was supposed  
5 to be a front so that Mahmoud Thiam could hide the fact that he  
6 was using money from Sam Pa to buy a house? No. Did he tell  
7 you anything other than he did work, eventually he got paid,  
8 there were delays in the payment, he stopped the work, and  
9 after a very expensive build-out, he only found out after the  
10 fact that the name of the house was in SSNL rather than  
11 Mr. Thiam personally?

12 Mr. Thiam testified today and yesterday. He told you  
13 the specifics of why that house was not in his name, that it  
14 wasn't his. He was paying money for the renovations. He was  
15 paying money in rent. He was paying that money in renovations  
16 because he got a deal from his friend, business associate,  
17 partner, to pay less rent than the house was worth. He said:  
18 I'm a tenant. We had a deal.

19 Does that tell you anything about a bribe?

20 The judge is going to instruct you on the law in this  
21 case. You cannot speculate. You can't guess. You have to  
22 have been convinced beyond a reasonable doubt about every  
23 element of every aspect of the crimes charged in this case.  
24 You just can't guess. You can't just guess like the government  
25 did and like now they want you to.



H52Wthi6

Summation - Mr. Goldsmith

1           Who else did we hear from as witnesses at the trial?  
2       We heard from Ms. Hayes, we heard from Mr. Damle. The  
3       investigators -- well, not investigators, a bank manager and a  
4       private-client associate at HSBC in New York. You heard them  
5       testify about their investigation into whether Mr. Thiam had  
6       any reason for them to restrict his bank accounts. Ms. Hayes  
7       saw the interview on TV that got blown up and shown to you on  
8       the wall. Mr. Thiam lied about what his work was, and you  
9       heard him testify in front of you that when they called him out  
10      on it, he admitted that he was the minister of mines.

11           Ms. Hayes and Mr. Damle testified about the fact that  
12      the accounts were closed. Ms. Aring told you that his J.P.  
13      Morgan Chase account was closed. They were closed after there  
14      was suspicion that Mr. Thiam was a politically influenced  
15      person, that he had ties to politics, he had ties to the  
16      government. Not about a bribe. The accounts that got closed,  
17      as Mr. Thiam told you, they were all closed. They were all  
18      closed after they found out about his PEP status. And as he  
19      told you about today and yesterday, yes, he did lie, yes, he  
20      did lie to the banks about his job. He lied to the banks about  
21      his job because a man who worked in banking for 14 years of his  
22      life before he decided to go work for the government of Guinea  
23      knew that as a PEP, that as someone who's classified as having  
24      any level of political interest, his accounts were going to get  
25      shut down; and that as a person who was at the time living



H52Wthi6

Summation - Mr. Goldsmith

1 halfway around the world that had a wife and kids here in New  
2 York, that he wanted to make sure that there was an account  
3 available for them to use, and that he was concerned not just  
4 about his account, and as he put it, his account in his name,  
5 as an individual, not Mahmoud Thiam, minister of mines, he also  
6 knew, from the 14 years of banking that he did before he worked  
7 for the Guinean government, that when his account would get  
8 closed, that the associated accounts of people associated with  
9 him, their accounts were likely to get closed too. And that's  
10 what happened. That's why his wife didn't just open up a bank  
11 account and use her bank account for everything, because he  
12 knew there was a domino effect.

13 He didn't do it to hide the proceeds. He didn't do it  
14 to hide the source of the proceeds. He did it because he knew  
15 if he was tied to any government, he wasn't going to have the  
16 use of a bank account to pay his bills, to pay for the things  
17 that he needed in his life and that he wanted in his life. And  
18 let's face it, he spent a lot of money on things that are not  
19 needs. They're luxuries. He went to nice restaurants, he went  
20 on nice vacations. He also spent money, as he told you, on a  
21 lot of travel while he was working as the Guinean minister of  
22 mines. But he spent money on private schools, as the  
23 government told you. He bought a piano. It doesn't matter.  
24 Whether it's \$5 or \$5 million, it doesn't matter. And it  
25 doesn't matter what he spent his money on from a private loan



H52Wthi6

Summation - Mr. Goldsmith

1 that he got from someone that he knew. And even if there was  
2 concrete evidence showing that there was a bribe, it still  
3 wouldn't matter what the man spent his money on.

4 The only people who care about what the money got  
5 spent on are the U.S. government, people at this table, because  
6 they don't have that person over there to tell you it was a  
7 bribe. Do not let the fact that Mr. Thiam spent money on  
8 expensive things, that he had an expensive lifestyle, cloud  
9 your vision and your scrutiny of the evidence and lack of  
10 evidence in this case.

11 You finally heard from Mr. Thiam. As the government  
12 explained, he didn't have to go up. He had a right not to say  
13 anything, but he wanted to. What he told you about was his  
14 life before working at the ministry of mines, those 14 years  
15 that he spent working at Merrill Lynch, UBS, where he was  
16 working in international banking, where he was helping clients  
17 around the world get more money, manage more money, where he  
18 was helping Merrill Lynch and UBS. He also testified about his  
19 lifestyle, that he was earning, as you heard, depending on the  
20 year, about \$3 million a year between his banking and his  
21 private business arrangements.

22 (Continued on next page)

23  
24  
25



H521thi7

Summation - Mr. Goldsmith

1 MR. GOLDSMITH: In the fancy flow charts that the  
2 government showed you -- and Special Agent Killeen was spinning  
3 through the thousands of pages of bank records -- they didn't  
4 show you anything from before 2009. They didn't show you that  
5 the man had a particular lifestyle before he became the  
6 minister of mines in the government of Guinea. They didn't  
7 want you to see that.

8 He told you about his experience going over to Guinea,  
9 about what the structure of the government was like, about  
10 pressures that he felt from the president to follow up on that  
11 deal, about the travel back and forth around the world at the  
12 request of the Guinean government, on behalf of the Guinean  
13 government. He told you about spending anywhere from three or  
14 four days to weeks with the people from CIF, with Sam Pa. Not  
15 working all the time, not negotiating a deal back and forth  
16 every second that they were together, about going out to lunch,  
17 going out to dinner, being at a play together, talking about  
18 each other's families, talking about what they want to do in  
19 the future, talked about developing the relationship that they  
20 had, where Sam looked at Mr. Thiam almost like a son, wanted  
21 Mr. Thiam to work with him after Mr. Thiam left the government  
22 of Guinea. That relationship that the human beings had amongst  
23 each other, to be close enough to ask when you needed money for  
24 a loan, to be close enough to ask for a very large loan, an  
25 amount of money that most people can't really compute for their



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Summation - Mr. Goldsmith

1 daily life. But it doesn't matter. Because Mr. Thiam had  
2 debts. He had other business deals he expected to get money  
3 on, he expected to grow and prosper. He expected to be able to  
4 repay Mr. Pa. He expected that he needed money for his family,  
5 for things that they were doing. And the bottom line is that  
6 he asked. And Sam Pa said yes. He told you that. But there  
7 was no other evidence. Somehow there was the *quid pro quo*, you  
8 do for me and I do for you, that there was an exchange, that  
9 that loan was for something. But it can't just be for  
10 something. That loan has to be for something from Guinea. No  
11 evidence.

12 He told you about the fact that the world changed in  
13 2008. For those millions of dollars that he was making before  
14 he went into work for the government of Guinea, that money  
15 wasn't the same anymore after the financial crisis. He needed  
16 to pay back loans. Loans that he, some of his business  
17 partners, some of his friends and family, freely were loaning  
18 each other back and forth for years. So he went to Sam Pa, the  
19 only person that he knew at the time had the cash to be able to  
20 give him, so that he could take care of his loans, take care of  
21 his family.

22 You heard him testify about him not taking a salary.  
23 He had this vision that he didn't want to be construed as  
24 taking money from the government at the time, but he also told  
25 you that he didn't want to have other members of the government



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Summation - Mr. Goldsmith

1 put him in a position so they could exert influence on him  
2 other than just the basic structures of the government. And  
3 maybe it's difficult to believe; maybe it's something that the  
4 government wants to keep harping on, the irony of it. Doesn't  
5 matter. It's not about a bribe.

6 Mahmoud Thiam also testified about his PEP status.  
7 You've heard a lot about it. As I've said before, and as you  
8 heard the witnesses say, he knew that once that account got  
9 closed, or rather once that account was labeled as a PEP, once  
10 it was classified, it was going to get closed, and it did.  
11 Every one of them. Not before he was the minister of mines in  
12 the government of Guinea. It happened, just like he knew it  
13 would happen.

14 Let's talk about the accounts. The accounts that were  
15 opened were in his name. Hong Kong: His name, passport, New  
16 York driver's license, his home address. HSBC New York: His  
17 name, his address, his identification. Mahmoud Thiam was not  
18 hiding under a shell company. He wasn't putting a fake name  
19 under those accounts. It was his name, his ID, his personal  
20 information, out there for the banks to know, up front. What  
21 the government is suggesting is that the money in the fancy  
22 flow charts about there should be one arrow instead of three  
23 arrows instead of eight arrows instead of -- who cares, his  
24 accounts, from at least one transfer, Sam Pa's account, from  
25 another transfer, account jointly held by Sam Pa. So the arch



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Summation - Mr. Goldsmith

1 criminal sitting at the second table over there, the man with  
2 14 years of international banking experience, in conjunction  
3 with the leader, the CEO of a large Chinese conglomerate who  
4 had been rumored to bring suitcases of cash to dignitaries to  
5 bribe them and pay them off, those two men, in orchestrating a  
6 bribe, decided the best way to do it was to use their personal  
7 bank accounts with their information on it, it banks using wire  
8 transfers that were going to be recorded that had paper files  
9 following each one of those bank's transfers that was open,  
10 that was notorious, that everyone in that bank could find and  
11 get and see. They decided that the best way to handle an \$8½  
12 million bribe was to create as much of a paper trail as  
13 possible, instead of the rumored way of Sam Pa showing up on a  
14 private plane with a suitcase full of cash being handed to a  
15 political candidate. That wasn't going to work. We were going  
16 to do it so that we were open and notorious and out for the  
17 world to see.

18 Mr. Thiam is presumed innocent. He pled not guilty.  
19 The judge is going to instruct you on the law. At the opening  
20 I told you that he was presumed innocent, and at ten after 4 on  
21 this Monday afternoon, or Tuesday afternoon -- it's been a long  
22 trial -- he's still presumed innocent. And he stays innocent  
23 until you, as the jury, determine that you are convinced that  
24 the government has proven each and every element of the few  
25 crimes charged against him beyond a reasonable doubt. Not,



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Summation - Mr. Goldsmith

1 well, I guess he might have done it. Well, he was the minister  
2 of mines and he got paid some money so he must have. Proven  
3 beyond a reasonable doubt. Not a guess, not a conjecture, not  
4 a maybe, or it looks like it. Beyond a reasonable doubt. And  
5 the burden of that proof rested with the government. So they  
6 had to prove to you not just that there was a bribe, that he  
7 also lied about those sources of those banks in the US for the  
8 purpose of hiding the fact that it was a bribe. They didn't do  
9 it.

10 Mahmoud got money from Sam Pa. Mahmoud lied about his  
11 work. That's about all the evidence you've got in this case  
12 related to those charges. Mahmoud got money from Sam Pa,  
13 Mahmoud lied about his work. He told you why he lied about his  
14 work. And there wasn't anybody here, and there isn't any  
15 paper, that's going to prove whether that payment was a bribe.  
16 In fact, Mr. Thiam told you it was a loan.

17 Special Agent Killeen testified for a long time. He  
18 read you a lot of pieces of paper. They would put them up on  
19 the screen in front of you, they'd highlight portions. They'd  
20 show you an email, then they'd show you a bank record, then  
21 they'd show you an email, then they'd show you a bank record.  
22 Special Agent Killeen from the FBI would read whatever was on  
23 the screen in front of him. And they did that for a few hours  
24 in front of you. They did that, picking out a few of those  
25 pieces of paper out of the thousands that he told you were



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Summation - Mr. Goldsmith

1 there. Cherry picking. They didn't have the proof that's  
2 needed. They tried to construct it for you. The thousands of  
3 pages of emails, the thousands of pages of bank records, the  
4 computer, the cellphones. And you got "no such thing as a free  
5 lunch."

6 This whole case, this huge Hollywood script of a  
7 background story, about a man from New York who goes to Guinea  
8 to be a minister over there, his banking background, the  
9 millions of dollars that he made in the past, coming up from  
10 being a refugee in the country, talking about all of these  
11 different agreements talking about billions of dollars' worth  
12 of agreements between a country and the Chinese company, all of  
13 these dealings between the president, a military coup, who the  
14 hierarchy of the ministers and who had more power. All of  
15 this, it's worthy of a Hollywood movie, but it doesn't give you  
16 enough. Because all that story boils down to in this case is  
17 what we have between this man and another man that happened in  
18 Hong Kong seven years ago, and the government didn't have  
19 enough to show you that it was a bribe. They didn't have  
20 anything to show you it was a bribe.

21 When you go into the jury room, you're going to have a  
22 chance to deliberate, to read through the transcripts if you  
23 think it's necessary, to recall the testimony that you read, to  
24 read through the exhibits, the documents, if you feel they're  
25 necessary, to think and scrutinize about what every witness



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Summation - Mr. Kobre

1 said, think what they had the ability to tell you, what they  
2 did not have the ability to tell you. You're going to go in  
3 the jury room, and there's a cliché that lawyers like to say.  
4 We like to say think about it as if you were sitting at that  
5 table. Think about the most serious decisions in your life,  
6 all right? We say it all the time because it is a tremendously  
7 important decision to make, and you are required to scrutinize  
8 everything that happened in this trial, all of the evidence  
9 that happened in this trial, what the witnesses said, what they  
10 could not say, what the papers say and what they do not say.

11 So with that, I leave you with a request. Forget  
12 about all I just said. Don't listen to me. Don't listen to  
13 what Mr. DiMase said earlier and don't listen to what  
14 Mr. Kobre's about to tell you, because we're the lawyers, and  
15 we're here for this trial right now. It doesn't matter what we  
16 say. What matters is what they said. And there wasn't anybody  
17 who could tell you that there was a bribe.

18 Thank you.

19 THE COURT: Mr. Kobre.

20 MR. KOBRE: Thank you, Judge.

21 THE COURT: Mr. DiMase, if you would move that podium.

22 MR. DiMASE: Oh, of course.

23 THE COURT: Thank you, Mr. Goldsmith.

24 MR. KOBRE: Ladies and gentlemen, there is a mountain  
25 of evidence in this case that the defendant, Mahmoud Thiam,



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Summation - Mr. Kobre

1 took bribes from executives of the Chinese companies and  
2 laundered those monies into the United States in a way to try  
3 to conceal the source of the funds.

4 We're almost done.

5 I'm going to speak for a little while, Judge Cote will  
6 instruct you on the law, and you'll finally be able to begin  
7 your deliberations.

8 I just want to start with a few small points.

9 First, the defendant has no obligation to do anything  
10 at this trial. As Judge Cote has told you, the government has  
11 the burden of proof. That is our responsibility. But if the  
12 defense makes arguments, like Mr. Goldsmith just did, it's  
13 perfectly appropriate for you to consider whether those  
14 arguments make any sense at all. And it's perfectly  
15 appropriate for the government to respond to those arguments.

16 The defense talked a little bit about beyond a  
17 reasonable doubt. That's the standard, of course. It's the  
18 standard that's applied every day in criminal cases across this  
19 country and it's been applied for the history of this country.  
20 We embrace that standard, and there is no reasonable doubt that  
21 the defendant accepted bribes from members of a Chinese  
22 conglomerate, from the Chinese companies, and laundered the  
23 money into the United States.

24 Now I'm not going to have time right now and I'm not  
25 going to take your time to talk about every one of



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Summation - Mr. Kobre

1 Mr. Goldsmith's arguments, so I'm just going to talk about the  
2 major points and then I'll leave it to you, of course, to  
3 review the evidence when you go to your deliberations.

4 Mr. Goldsmith argued that you haven't been presented  
5 with a particular witness who got up on the witness stand and  
6 told you that this was a bribe. There is an enormous amount of  
7 evidence that this is a bribe. And I'm going to review a  
8 little bit of that with you, but let me just take a step back.

9 At the beginning of this trial, Ms. Laryea asked you  
10 to do several things, and one of them was to use your common  
11 sense. And common sense tells you that when people enter into  
12 a bribery relationship, when somebody offers another person a  
13 bribe in return for an act, that they don't do that in a public  
14 forum, in the presence of witnesses. That's just common sense.

15 So how do you know, what is the evidence, that this is  
16 a bribe? You look at what you know about the nature of the  
17 payments. You've heard testimony and you heard the defendant's  
18 interview with the FBI that there was no interest, there was no  
19 repayment date for this money, that the money was transferred  
20 in, through three different accounts, from the Chinese company  
21 to three accounts and then all to the defendant, that there was  
22 no date specified to repay this money, and that in fact the  
23 money was in fact never repaid. What do you call money that's  
24 transferred that doesn't have to be repaid for which there is  
25 no interest rate, there is no date that it has to be repaid by,



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Summation - Mr. Kobre

1 and that it's never repaid? You call that a payment. You  
2 don't call that a loan. There's not a shred of paper to back  
3 up this loan. People don't loan \$8.5 million without putting  
4 it on a document somewhere.

5 You also heard testimony during this trial about the  
6 defendant's repeated lies. I think you can almost lose count  
7 of how many lies the defendant has told and has now admitted to  
8 telling. He lied to the Hong Kong bank when he opened up the  
9 account. He lied to JPMorgan Chase when they asked him  
10 questions, when Ms. Aring asked him questions. He lied to HSBC  
11 in the United States when they asked him questions. He lied,  
12 now we know, to the IRS and didn't report this as a loan to the  
13 IRS, choosing instead to pay \$2 million, or at least accept  
14 liability of a \$2 million tax payment because he reported it as  
15 fees from consulting. He lied to the FBI, repeatedly, when he  
16 was confronted by this money. He lied to the FBI in one way by  
17 saying that the money had come from more than -- from 50  
18 different people. In fact, you saw the pie chart, ladies and  
19 gentlemen. This money came from the Chinese companies. And he  
20 lied again to the FBI when he said, no, the agreement had been  
21 long signed by the time he got the money. False. In fact, he  
22 received the first \$3 million two weeks before that agreement  
23 was signed. Why all these lies?

24 You heard from Mr. Goldsmith that everything was open  
25 and notorious, it was all out there. Really?



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Summation - Mr. Kobre

1 Lie after lie after lie to hide the source of this  
2 money. The defendant tried to explain this away in part by  
3 saying he was concerned that his PEP status would lead to the  
4 closing of the account. But what he couldn't explain, and what  
5 Mr. Goldsmith didn't explain, is why he had to lie about the  
6 source of the money after he already told the bank that he was  
7 the minister of mines. Why did he tell Ms. Aring, after  
8 admitting to her that he was the minister of mines, why did he  
9 tell her that it was from these transactions with Baker  
10 Al-Sadi? That was false, and unexplained. Why did he tell  
11 Mr. Damle that this money was from the sale of land in Africa,  
12 from prior business deals? That had nothing to do with the PEP  
13 status. That was about the source of the money. And the  
14 defendant wanted to conceal the source of the money because he  
15 knew that once it was determined, once it was figured out that  
16 the money came from the same executives as he was negotiating  
17 with, as he was negotiating the CIF deal with, that would  
18 expose the bribe.

19 You saw, ladies and gentlemen, Mr. Goldsmith didn't  
20 talk to you about those text messages that were in Government  
21 Exhibit 601-A, where the defendant said, repeated that Sam Pa  
22 had told him that he would be locked up first, that the  
23 defendant would be locked up. People who are engaged in  
24 legitimate transactions don't joke about getting locked up. If  
25 you know you're not doing anything wrong, where does getting



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Summation - Mr. Kobre

1 locked up enter into the picture? It's because the defendant  
2 knew, when he was dealing with Sam Pa and getting the  
3 \$8.5 million, that this was a bribe. This was illegal. And  
4 that was what he meant. That's what Sam Pa meant and that's  
5 what the defendant meant about getting locked up.

6 Let me talk to you a little bit about the defendant's  
7 testimony today. The defendant said things on the witness  
8 stand that are just clearly lies -- things that simply make no  
9 sense. Mr. DiMase pointed out one to you, but Mr. Goldsmith  
10 addressed it and I want to talk about it briefly. The  
11 defendant testified that he took money from Sam Pa because that  
12 was the only person who there would be no suspicion about a  
13 conflict of interest. Does that make any sense to you? If  
14 there was anyone who there would be a reason to suspect  
15 illegality from, it would be taking money from Sam Pa, the  
16 person who you're negotiating a deal with. It just makes no  
17 sense.

18 Mr. Goldsmith mentioned, he said it's irrelevant that  
19 the defendant spent a lot of this money on luxury. And you  
20 heard a fair amount of testimony about that. But it is  
21 relevant, ladies and gentlemen. The defendant testified that  
22 he needed this money to feed his family. He tried to explain  
23 away why he was getting this money, why he needed the money,  
24 why he, according to his version, requested this money. He  
25 didn't need the money to feed his family. What he needed it



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1 for was to feed his lavish lifestyle. And that's why it's  
2 relevant.

3 And one more point on the defendant's testimony. And  
4 this goes back to the IRS. That's a lie that you heard from  
5 the defendant on the witness stand. On his 2010 tax return, he  
6 reported more than \$5 million, consulting, from a consulting  
7 business that he was supposedly conducting out of his home  
8 address. Another lie, ladies and gentlemen.

9 Defense counsel spoke to you a bit about the witnesses  
10 in this case and what they testified to. You heard from  
11 Mr. Camara and Mr. Sande, the Guinean officials, and you heard  
12 the defense witness, Momo Sakho. You heard from Momo Sakho  
13 that he had no involvement in the CIF deal. He didn't know, he  
14 didn't have direct knowledge about that. But you heard from  
15 Mr. Camara, who did have direct involvement, and you heard from  
16 Mr. Sande, who did have direct involvement. And you heard, and  
17 you saw earlier during Mr. DiMase's presentation, that  
18 Mr. Camara testified that the defendant was the chief  
19 negotiator, was the chief person dealing directly with the  
20 Chinese. And you saw that in the government exhibits. You saw  
21 that, ladies and gentlemen, in the emails. You saw that it was  
22 the defendant who proposed -- when the Chinese said that the  
23 percentages were unacceptable, it was the defendant who came up  
24 with the suggestion of how to fix it, the defendant who  
25 proposed that to the prime minister, the defendant who



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Summation - Mr. Kobre

1 initialed the agreement, the defendant who corresponded on  
2 other emails with other executives.

3 Let me just talk for a moment about the house, the  
4 771 Duell Road, Dutchess County house. You heard from the  
5 defendant today that this was not his house. But ladies and  
6 gentlemen, it simply makes no sense in light of the evidence.  
7 You saw on the deed that SSNL, the company that nominally, in  
8 name, bought the house, was at his address. It's his wife who  
9 signed for it. Two years later the property is transferred to  
10 a company called AMER, the same company that the defendant  
11 reported to HSBC was his employer, falsely, also located on the  
12 deed at the defendant's address. And again, that deed is  
13 signed for by the defendant's wife as a member of SSNL. And to  
14 top it off, you heard from Mr. Scardaci, the contractor, that  
15 the defendant spent over a million dollars doing construction  
16 work on that house. The defendant himself testified that he  
17 knew the house. He lived there on weekends.

18 Ladies and gentlemen, let me just close with this.  
19 This is an important case. It's an important case for the  
20 defendant for obvious reasons, and it's an important case for  
21 the government. And I know from the close attention that  
22 you've all paid over the past week that this case is important  
23 to you. But make no mistake, this is a simple case. And it is  
24 not a close case. The defendant abused the government  
25 position, he took \$8.5 million in bribes, and then transferred



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1 those millions to enrich himself here in the United States and  
2 elsewhere. We ask that you return the only fair and just  
3 verdict in this case, and that is a verdict of guilty.

4 Thank you.

5 THE COURT: Ms. Rojas, will you please announce the  
6 jury charge.

7 THE DEPUTY CLERK: The Court is about to charge the  
8 jury. Any spectator wishing to leave the courtroom will do so  
9 now or remain seated until the completion of the Court's  
10 charge.

11 THE COURT: Ms. Rojas, will you please provide to the  
12 members of the jury copies of the charge.

13 THE DEPUTY CLERK: Yes, your Honor.

14 THE COURT: Ladies and gentlemen, you've each been  
15 given a copy of the charge. I am going to read this to you  
16 now, and you must listen to me as I do so. Some people find it  
17 easier to understand things if they can read along. If you're  
18 one of those folks, you have a copy and you can read along. If  
19 you'd rather just listen to me, that's fine. Just put it under  
20 your chair and that's just fine. You'll have a copy to take  
21 with you into the jury room during your deliberations.

22 Now we're going to end at 5:00 so I may not finish  
23 reading this to you. I'll begin again tomorrow morning at 9:30  
24 at our regular time to finish my charge on the law.

25 It is my duty at this point to instruct you as to the



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1 law. It is your duty to accept these instructions of law and  
2 apply them to the facts as you determine them. Regardless of  
3 any opinion that you may have as to what the law may be -- or  
4 ought to be -- it would violate your sworn duty to base a  
5 verdict upon any rule of the law other than the one I give you.  
6 If an attorney has stated a legal principle different from any  
7 that I state to you in my instructions, it is my instructions  
8 that you must follow.

9 You should not single out any instruction alone as  
10 stating the law, but you should consider my instructions as a  
11 whole when you retire to deliberate in the jury room. And as I  
12 said, you may take a copy of these instructions with you into  
13 the jury room.

14 Your role is to decide the fact issues that are in the  
15 case. You are the sole and exclusive judges of the facts. You  
16 must determine the facts based solely on the evidence received  
17 in this trial.

18 In determining the facts, you must rely upon your own  
19 recollection of the evidence. What the lawyers have said --  
20 for instance, in opening statements, in closing arguments, in  
21 objections or in questions -- is not evidence. You should bear  
22 in mind particularly that a question put to a witness is never  
23 evidence. It is only the answer that is evidence.

24 I remind you that nothing I have said during the trial  
25 or will say during these instructions is evidence. Similarly,



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1 the rulings I have made during the trial are not any indication  
2 of my views of what your decision should be.

3 The evidence before you consists of the answers given  
4 by the witnesses, the exhibits, and the stipulations that were  
5 received in evidence. If I have sustained an objection to a  
6 question or stricken testimony, the answers given by the  
7 witness are no longer part of the evidence in this case and may  
8 not be considered by you.

9 Your verdict must be based solely upon the evidence or  
10 the lack of evidence. It would be improper for you to consider  
11 any personal feelings you have about the defendant's race,  
12 religion, or national origin. It would be equally improper for  
13 you to allow any feelings you might have about the nature of  
14 the crimes charged to interfere with your decision-making  
15 process.

16 The fact that the prosecution is brought in the name  
17 of the United States of America entitles the government to no  
18 greater consideration than that given to any other party. By  
19 the same token, the government is entitled to no less  
20 consideration.

21 The defendant has pleaded not guilty to the charges  
22 against him. As a result of a plea of not guilty, the burden  
23 is on the government to prove guilt beyond a reasonable doubt.  
24 This burden never shifts to a defendant for the simple reason  
25 that the law never imposes upon a defendant in a criminal case



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1 the burden or duty of testifying or calling any witness or  
2 locating or producing any evidence.

3 The law presumes the defendant to be innocent of the  
4 charges against him. This presumption of innocence alone is  
5 sufficient to acquit the defendant. This presumption was with  
6 the defendant when the trial began and remains with the  
7 defendant unless and until you are convinced that the  
8 government has proven the defendant's guilt beyond a reasonable  
9 doubt.

10 The question that naturally arises is: What is a  
11 reasonable doubt? What does that term mean? The words almost  
12 define themselves. It is a doubt based in reason and arising  
13 out of the evidence in the case, or the lack of evidence. It  
14 is a doubt that a reasonable person has after carefully  
15 weighing all the evidence in the case.

16 Reasonable doubt is a doubt that appeals to your  
17 reason, your judgment, your experience, and your common sense.  
18 If, after a fair and impartial consideration of all the  
19 evidence, you can candidly and honestly say that you are not  
20 satisfied of the guilt of the defendant, that you do not have  
21 an abiding and firm belief of the defendant's guilt -- in other  
22 words, if you have such a doubt as would reasonably cause a  
23 prudent person to hesitate in acting in matters of importance  
24 in his or her own affairs -- then you have a reasonable doubt,  
25 and in that circumstance it is your duty to acquit.



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1           On the other hand, if, after a fair and impartial  
2       consideration of all the evidence, you can candidly and  
3       honestly say that you do have an abiding belief of the  
4       defendant's guilt, such a belief as a prudent person would be  
5       willing to act upon in important matters in the personal  
6       affairs of his or her own life, then you have no reasonable  
7       doubt, and under such circumstances it is your duty to convict.

8           One final word on this subject: Reasonable doubt is  
9       not whim or speculation. It is not an excuse to avoid the  
10      performance of an unpleasant duty. Nor is it sympathy for the  
11      defendant. Beyond a reasonable doubt does not mean a positive  
12      certainty, or beyond all possible doubt. After all, it is  
13      virtually impossible for a person to be absolutely and  
14      completely convinced of any contested fact that by its nature  
15      is not subject to mathematical proof and certainty. As a  
16      result, the law in a criminal case is that it is sufficient if  
17      the guilt of the defendant is established beyond a reasonable  
18      doubt, not beyond all possible doubt.

19           The indictment in this case contains two counts or  
20      charges that the defendant violated two different United States  
21      criminal laws. Each count constitutes a separate offense which  
22      must be considered separately by you and for which you must  
23      return a separate verdict.

24           Count One charges that between 2009 and August 2011,  
25      Mahmoud Thiam engaged in a monetary transaction in criminally



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1 derived property in excess of \$10,000.

2 Count Two charges that Thiam engaged in money  
3 laundering in November of 2010.

4 Count One charges Thiam with violating Section 1957 of  
5 Title 18 of the United States Code. Section 1957 states:

6 "Whoever... knowingly engages or attempts to engage in  
7 a monetary transaction in criminally derived property of a  
8 value greater than \$10,000 and is derived from specified  
9 unlawful activity [and does so either] in the United States  
10 or... outside the United States... but the defendant is a  
11 United States person" shall be guilty of a crime.

12 In order for you to find the defendant guilty of the  
13 crime charged in Count One, the government must prove each of  
14 the following elements beyond a reasonable doubt:

15 First: That during the period between 2009 and August  
16 2011, the defendant knowingly engaged or attempted to engage in  
17 a monetary transaction with a value in excess of \$10,000. You  
18 must unanimously agree upon at least one such monetary  
19 transaction with respect to which each of the following  
20 elements is met.

21 Second: That at least \$10,000 of the property that  
22 was the subject of that monetary transaction was criminally  
23 derived property from the specified unlawful activity on which  
24 I will instruct you shortly.

25 Third: That the defendant knew that the property



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1 involved in the financial transaction represented the proceeds  
2 of some form of unlawful activity.

3 Fourth: That the transaction either took place in the  
4 United States or took place outside the United States but the  
5 defendant is a United States person. You must be unanimous as  
6 to which of these conditions was satisfied. A transaction  
7 takes place in the United States if any part of the monetary  
8 transaction occurs in a United States financial institution.  
9 This includes the transfer of funds from a foreign country into  
10 a United States financial institution. A United States person  
11 is a United States national or a person within the United  
12 States.

13 Fifth: That the transaction had an effect on  
14 interstate or foreign commerce.

15 The term "monetary transaction" means the deposit,  
16 withdrawal, transfer, or exchange, in or affecting interstate  
17 or foreign commerce, of funds or a monetary instrument by,  
18 through, or to a financial institution. A monetary instrument  
19 includes the currency of the United States or of any other  
20 country. A financial institution includes any commercial  
21 United States or foreign bank.

22 Specified unlawful activity includes an offense  
23 against a foreign nation involving bribery of a public official  
24 in that nation. Count One charges a violation of the bribery  
25 laws of the Republic of Guinea, specifically Articles 192 and



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1 194. A violation of either of these laws is specified unlawful  
2 activity. It is for you to determine whether a violation of  
3 either antibribery law occurred and whether the funds in the  
4 monetary transaction at issue in Count One were derived from  
5 this unlawful activity.

6 Article 192 of Guinea's Penal Code criminalizes  
7 passive corruption, or the receipt of bribe payments by a  
8 public official. Article 194 of Guinea's Penal Code  
9 criminalizes active corruption, or the payment of bribes by  
10 other persons to a public official.

11 Article 192, subsection 1, entitled "Passive  
12 Corruption," provides:

13 "Whoever has solicited or accepted offers or promises,  
14 solicited or received donations or gifts in order to:

15 1) being an elected public official, a public official  
16 of the administrative order, agent or official of a public  
17 administration or citizen in charge of a public service  
18 ministry, to perform or refrain from performing an act within  
19 the scope of his/her functions or job, fair or not, but not  
20 subject to salary," shall be guilty of a crime.

21 To prove a violation of Article 192, the government  
22 must prove each of the following elements beyond a reasonable  
23 doubt:

24 (1) At the time of the alleged offense, the defendant  
25 was an agent or official of a public administration or a



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1 citizen in charge of a public service ministry. I instruct you  
2 that the Minister of Mines and Geology of the Republic of  
3 Guinea, which I'll refer to as the minister of mines, is both  
4 an agent or official of a public administration and a citizen  
5 in charge of a public service ministry.

6 (2) The defendant knowingly solicited or received  
7 something of value outside of or beyond the defendant's  
8 government salary.

9 (3) The defendant's solicitation or receipt of the  
10 thing of value was in return for engaging in an act or  
11 refraining from engaging in an act. It is irrelevant whether  
12 the act in question was "fair... or not." In other words, it  
13 is irrelevant whether the defendant might have lawfully and  
14 properly engaged (or refrained from engaging) in the act. It  
15 is also irrelevant whether the defendant was the final or only  
16 decision maker or even able to achieve the objective of the  
17 bribe.

18 (4) The act fell within the scope of the defendant's  
19 job or function as the minister of mines.

20 Article 194, entitled "Active Corruption," provides:

21 "Whoever, to obtain, either performance of an act or  
22 the refraining from performance of an act or one of the favors  
23 or advantages set forth in Article 192, having employed  
24 assaults or threats, promises, offers, donations or gifts or  
25 given in to entreaties aimed at bribery, even if he/she has not



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1 taken the initiative, whether or not the force or bribery has  
2 had an effect," shall be guilty of a crime.

3 To prove a violation of Article 194, the government  
4 must prove each of the following elements beyond a reasonable  
5 doubt:

6 (1) A person or entity, whether directly or through a  
7 third party, knowingly offered or gave something of value to a  
8 public official -- even if in response to the solicitation of  
9 the public official -- outside of or beyond the public  
10 official's government salary. I instruct you that the minister  
11 of mines is a public official.

12 (2) The thing of value was offered or given to the  
13 public official to influence that public official to engage in  
14 an act or to refrain from engaging in an act. It is irrelevant  
15 whether or not the public official actually performed the act  
16 or refrained from performing the act. It is also irrelevant,  
17 as I have already explained to you, whether the act in question  
18 was "fair... or not."

19 (3) The act in question was within the scope of the  
20 public official's job function or position.

21 A person acts "knowingly" if he acts intentionally,  
22 voluntarily, and deliberately, and not because of mistake or  
23 accident, mere negligence or other innocent reason. The  
24 government is not required to prove that the defendant knew  
25 that the criminal offense from which the property was derived



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1 was in fact a violation of Article 192 or 194 of Guinea's Penal  
2 Code. You must find, however, that the defendant knew that the  
3 proceeds were derived from some form of activity that  
4 constitutes a criminal offense under the laws of Guinea.

5 Interstate or foreign commerce includes any  
6 transmission, transfer, or transportation of goods, services,  
7 communication, or persons, between one state and another state  
8 or foreign country, regardless of whether or not it is done for  
9 a business purpose. The effect on interstate or foreign  
10 commerce can be minimal. Any involvement, however slight, will  
11 satisfy this element. You do not have to decide whether the  
12 effect on interstate or foreign commerce would be harmful or  
13 beneficial.

14 It is not necessary for the government to show that  
15 the defendant actually intended or anticipated an effect on  
16 interstate or foreign commerce by his actions or that commerce  
17 was actually affected. All that is necessary is that the  
18 natural and probable consequences of the acts a person agreed  
19 to take would affect interstate or foreign commerce.

20 Count Two charges defendant Thiam with violating  
21 Section 1956(a)(1)(B)(i) of Title 18 of the United States Code.  
22 Section 1956(a)(1)(B)(i) provides:

23 "Whoever, knowing that the property involved in a  
24 financial transaction represents the proceeds of some form of  
25 unlawful activity, conducts or attempts to conduct such a



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1 financial transaction which in fact involves the proceeds of  
2 specified unlawful activity...

3 "(B) Knowing that the transaction is designed in whole  
4 or in part.

5 "(i) to conceal or disguise the nature, the location,  
6 the source, the ownership, or the control of the proceeds of  
7 the specified unlawful activity," shall be guilty of a crime.

8 In order to find the defendant guilty of the crime  
9 charged in Count Two, the government must prove each of the  
10 following elements beyond a reasonable doubt:

11 First: That the defendant conducted or attempted to  
12 conduct a financial transaction in November 2010 related to the  
13 Dutchess County residence.

14 Second: That the transaction involved the proceeds of  
15 specified unlawful activity. As I've already instructed you, a  
16 violation of either Article 192 or 194 under the laws of the  
17 Republic of Guinea is specified unlawful activity.

18 Third: That the defendant knew that the property  
19 involved in the financial transaction represented the proceeds  
20 of some form, though not necessarily which form, of unlawful  
21 activity that constitutes a felony under state, federal, or  
22 foreign law. I instruct you that a violation of either Article  
23 192 or 194 is a felony under the laws of the Republic of  
24 Guinea.

25 Fourth: That the defendant knew that the purpose or



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1 intended aim of the transaction was to conceal or disguise a  
2 specified attribute of the funds, such as its nature, location,  
3 source, ownership, or control; and

4 Fifth: That the transaction had an effect on  
5 interstate or foreign commerce.

6 You may use the same definition here as those given in  
7 Count One for the terms that appear in both counts.

8 The term "conducts" includes the act of initiating,  
9 concluding, or participating in initiating or concluding a  
10 transaction. A "transaction" includes a purchase, sale, loan,  
11 pledge, gift, transfer, delivery, or other disposition of  
12 property.

13 The term "financial transaction" means (1) a  
14 transaction involving a financial institution which is engaged  
15 in or affects interstate or foreign commerce, or (2) a  
16 transaction which affects interstate or foreign commerce and  
17 involves the movement of funds by wire or other means, or  
18 involves one or more monetary instruments, or involves the  
19 transfer of title to any real property.

20 You have heard testimony about the extent to which  
21 Guinea did or did not benefit, or was expected to benefit or  
22 not, from its agreements with China International Fund and  
23 related entities, and the extent to which these agreements  
24 complied with certain provisions of Guinea's laws. As I've  
25 told you, it violates the law of Guinea for a public official



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1 to be offered, solicit or receive a bribe in return for  
2 engaging or refraining from engaging in an act connected with  
3 his official position. This is true whether the act will or  
4 will not benefit Guinea. Similarly, if you find that the  
5 government carried its burden of proving beyond a reasonable  
6 doubt each of the elements of the crime charged in Counts One  
7 and Two, each of which charges a violation of United States  
8 law, it is irrelevant whether Guinea did or did not benefit  
9 from this agreement with China International Fund and others.

10 And with that, I'm going to end for today. So we'll  
11 pick up tomorrow at page 22. Okay?

12 So some final instructions. I want you to leave those  
13 charges right on your chairs. We'll start tomorrow morning at  
14 9:30 promptly. Please make every effort to be here on time  
15 tomorrow.

16 I also want to remind you, you may not discuss this  
17 case. You can't discuss this case with anyone, even with each  
18 other. This case will be submitted to you, the jury, tomorrow,  
19 after I've finished giving you my charge. At that point the  
20 deliberating jurors must discuss the case with each other, but  
21 until then, you may not.

22 And with that, I wish you a good night. We'll see you  
23 tomorrow morning.

24 (Jury not present)

25 THE COURT: So counsel, I'd like you to work together



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1 this evening, if you would, please, or early tomorrow morning  
2 to gather together the indictment and all the exhibits that  
3 were received in evidence that can be submitted to the jury in  
4 the jury room, because we'll send those in directly after I  
5 finish the charge. I want you to make sure that you review  
6 this stack of material with each other so that you've both  
7 signed off on the fact that what was sent in to the jury room  
8 has been received in evidence. Or the indictment. And, you  
9 know, we should have a redacted indictment, I think, because  
10 there's a forfeiture charge in it, I think. That should come  
11 out of what we send to the jury.

12 MR. KOBRE: Yes, we'll redact that and prepare that.

13 THE COURT: Right. And then share it with each other,  
14 and then once you've signed off on this pile of documents,  
15 we'll give it to Ms. Rojas and she'll give it to the Marshal  
16 tomorrow, and I'd like to have that ready for the jury when  
17 deliberations begin.

18 And I don't know of anything else we need to discuss  
19 this evening. Mr. Kobre?

20 MR. KOBRE: Just on the issue of the exhibits, so some  
21 of the exhibits were on discs. How did your Honor want us to  
22 deal with those?

23 THE COURT: I don't know.

24 MR. KOBRE: Because there are a substantial number of  
25 documents on some of those discs -- the voluminous bank



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1 records, for example.

2 THE COURT: Well, I mean, we can't provide the jury,  
3 in the jury room, anything that wasn't received in evidence, so  
4 theoretically, if there was an absolutely clean laptop and only  
5 admitted exhibits could be accessed on it, theoretically, we  
6 could send that in to the jury. But I'd want to have agreement  
7 by both sides on that. But otherwise I think it's just like  
8 many other pieces of evidence. If they ask for it, they'll  
9 have to be in the courtroom under my supervision looking at  
10 them during deliberations. So I leave it to the parties to  
11 discuss that.

12 MR. KOBRE: Thank you, Judge.

13 THE COURT: Okay. Mr. Goldsmith, anything we should  
14 discuss this evening?

15 MR. GOLDSMITH: No, your Honor.

16 THE COURT: Good. Great. Great. So we'll pick up  
17 with the venue charge tomorrow. Thank you, all.

18 THE DEPUTY CLERK: All rise.

19 (Adjourned to May 3, 2017, at 9:30 a.m.)  
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